



BUCHANAN TOWN CODE
(Updated 12/23/19-174 pages)

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CHAPTER 1

GENERAL PROVISIONS

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Section 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of the Town of Buchanan, Virginia" and may be so cited. Such ordinances may also be cited as "Buchanan Town Code" or "this Code".

State law references: Authority of Town to codify and recodify its ordinances, Code of Virginia, § 15.2-1433.

Section 1-2. Rules of construction and definitions.

In the interpretation and construction of this Code and of all ordinances of the Town, the following rules of construction and definitions shall be observed, unless, they are inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

Bond. When a bond is required, an undertaking in writing, with such surety, if any, as the Council may direct, shall be sufficient.

Charter. The word "Charter" shall mean the Charter of the Town, as it now exists or as it may be amended in the future.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, then the next succeeding day not a Sunday or holiday shall be included.

Council. The term "Council" or "Town Council" shall mean the Council of the Town of Buchanan, Virginia.

County. The word "county" shall mean the County of Botetourt in the State of Virginia.

Court. Unless otherwise provided the word "court" shall mean the General District Court for the County of Botetourt, or if the offense involves a juvenile or a juvenile defendant, then the Juvenile and Domestic Relations Court for the County of Botetourt.

Following. The word "following," when used by way of reference to any section in this Code, shall be construed to mean next following that in which such reference is made.

Gender. A word importing the masculine gender only may extend and be applied to females and to corporations, as well as males.

Health department. The term "health department" shall mean the health department of Botetourt County, Virginia.

Health officer. The term "health officer" shall mean the director of public health of Botetourt County, Virginia, or his authorized representative.

In the Town; within the Town. The words "in the Town" or "within the Town" shall mean any territory jurisdiction of which, for the exercise of its regulatory power, has been conferred on the Town by public or private law.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

Occupant or tenant. The word "occupant" or "tenant," applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies, the whole or a part of such building or land, either alone or with others.

Officers, agencies. Whenever reference is made to a particular officer, employee, department, board, commission or other agency, without further qualification, such reference shall be construed as if followed by the words "of the Town of Buchanan, Virginia." A reference to a specific officer shall include that officer's duly authorized deputies and agents.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight-saving time, whichever may be in current use in the Town.

Or; and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Percent. The word "percent" shall be equivalent to the words "per centum."

Person. The word "person" shall include any individual, corporation, firm, joint stock company, partnership, association of persons, corporation, organization, company, business, trust, estate, joint venture or other legal entity.

Preceding. The word "preceding," when used by way of reference to any section in this Code, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property" shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the Town, and those parts of public places which do not form travelled parts of streets, as defined in this section.

Section numbers. Whenever reference is made to a section by number only (e.g., "section 1-1"), without further qualification, it shall be construed as referring to that section of this Code.

Shall; may. The word "shall" shall be mandatory; the word "may" shall be permissive.

Sheriff or Sheriff's Department. References to "Sheriff", "Deputy" or "Sheriff's Department" shall refer to the Botetourt County Sheriff's and his Department and Deputies.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature; subscription. The words "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State; commonwealth. The word "state" or "commonwealth" shall be construed as if followed by the words "of Virginia."

State code. References to the "State Code" or the "Code of Virginia" shall mean the Code of Virginia, 1950, as amended.

Street. The word "street" shall mean the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Town, including the streets and alleys, and, for law enforcement purposes, the entire width between the boundary lines of all private roads or private streets which have been specifically designated "highways" by an ordinance adopted by the governing body.

Swear; sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

Tense. Words used in the past or present tense may include the future, as well as the past and present.

Town. The word "Town" or "the Town" shall mean the Town of Buchanan, in the County of Botetourt and the State of Virginia.

Written; in writing. The words "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State law references: Rules of construction and definitions applicable to state law, Code of Virginia, § 1-13 et seq.

Section 1-3. Editor's notes and references.

The editor's notes, Charter references, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

Section 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the sections.

Section 1-5. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

State law references: Similar provisions as to sections of state code, Code of Virginia, § 1-13.9.

Section 1-6. Severability of parts of Code.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, or their application.

Section 1-7. Provisions of Code construed as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the General Ordinances of the Town of Buchanan, Virginia, and all ordinances adopted by the Council shall be construed as continuations thereof and not as new enactments.

Section 1-8. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any ordinance promising or guaranteeing the payment of money by or for the Town or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness or any contract or obligation assumed by the Town;
- (2) Any ordinance granting any franchise or right;
- (3) Any ordinance appropriating funds, levying or imposing taxes or relating to any public improvement or assessments therefor;
- (4) Any ordinance annexing territory to the Town;
- (5) Any ordinance authorizing, providing for or otherwise relating to any public improvement or assessments therefor;
- (6) Any ordinance prescribing the rate, fee or charge for any permit or license issued by the Town or for any service rendered by the Town;
- (7) Any ordinance adopted for purposes which have been consummated; or
- (8) Any ordinance which is temporary, although general in effect, or special, although permanent in effect; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1982, § 1-6)

Section 1-9. Code does not affect prior rights, offenses and other actions.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.

(Code 1982, § 1-7)

Section 1-10. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repeal of chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Council to make the same a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of the Town of Buchanan, Virginia, is hereby amended to read as follows:" The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the Town of Buchanan, Virginia, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as enacted.

(d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

Section 1-11. Supplementation of Code.

(a) By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.
- (Code 1982, § 1-8)

State law references: Authority to supplement Code, Code of Virginia, § 15.2-1433.

Section 1-12. Copies of Code and supplements to be available for public inspection.

At least three copies of this Code and of every supplement thereto shall be kept in the office of the Town Clerk and shall there be available for public inspection, during normal business hours. In addition, at least one copy of this Code shall be made available for public use at the public library branch closest to the Town Hall.

(Code 1982, § 1-9)

State law references: Similar provisions, Code of Virginia, § 15.2-1433.

Section 1-13. Liability of corporations, organizations, and agents for violations.

(a) Any violation of this Code or other ordinance of the Town by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall, in every case, also be deemed to be a violation by such corporation, association or organization.

(b) Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment, as well as such corporation or unincorporated association or organization, for the violation by it of any provision of this Code or other ordinance of the Town, where such violation was the act or omission or the result of the act, omission or order of any such person.

CHAPTER 2

ADMINISTRATION

Article I. In General

Section 2-1. Fiscal Year.

Section 2-2. Deposit of Funds.

Section 2-3. Reserved.

Section 2-4. Execution of deeds and other instruments.

Section 2-5. Method of sale of land for failure to pay local or special assessments, or other expenses.

Section 2-6. Reserved.

Section 2-7. Reserved.

Article II. Council

Section 2-8. When regular Council meetings held.

Article III. Officers and Employees Generally

Section 2-9. Reserved.

Section 2-10. Salaries, bonds, benefits for officers and employees.

Section 2-11. Disclosure statement required to be filed.

Section 2-12. Bonding.

Section 2-13-20. Reserved.

Article IV. Mayor

Section 2-21. To be purchasing agent.

Section 2-22. Orders by Council and members to subordinates.

Section 2-23-29. Reserved.

Article V. The Town Attorney

Section 2-30. Attendance at Council meetings.

Section 2-31. Annual report.

Section 2-32. Compensation generally.

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Article VI. Treasurer

Section 2-40. May also be Town Clerk.

Section 2-41. General Duties.

Section 2-42. Town money in hands of treasurer to be safely kept.
Section 2-43. Record of receipts, disbursements and accounts generally.
Section 2-44. Record of checks issued.
Section 2-45. Monthly financial statement.
Section 2-46. Administrative fees, etc. in connection with licenses.
Section 2-47. Fee for returned checks.
Section 2-48. Authority for Signing Checks.
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Article VII. The Town Clerk

Section 2-50. Attendance at Council meetings.
Section 2-51. Duty to keep journal of Council proceedings; attestation and publication of ordinances, papers and proceedings.
Section 2-52. Transmission to Council of reports of Town officers.
Section 2-53. General duties as to books and records.
Section 2-54. Examination of clerk's books and papers.
Section 2-55. Duties with respect to book of ordinances and resolutions.
Section 2-56 to 2-90. Reserved.

Article I. In General

Section 2-1. Fiscal Year.

The fiscal year of the Town shall be from the first day of July to the thirtieth of June next following, until changed by ordinance.

Comment: Former section 2-1.

Section 2-2. Deposit of Funds.

All money belonging to the Town shall be deposited in the institutions enumerated in this section by the treasurer in the name of the "Town of Buchanan."

The institutions referred to in the first paragraph of this section are as follows:

- (a) The Bank of Botetourt

Section 2-3. Reserved.

Section 2-4. Execution of deeds and other instruments requiring use of seal.

All deeds for the conveyance or exchange of the property of the Town, and all agreements of the Town, shall, when approved by the Town Council, be authenticated in the name of the Town by the Mayor and attested by the Town Clerk.

Section 2-5. Method of sale of land for failure to pay local or special assessments, or other expenses.

The method of making sale of any lands, lots or premises for nonpayment of the amount of any local or special assessments thereon, or for the nonpayment of any expense incurred by the Town in abating any nuisance thereon, or cutting or removing weeds therefrom, shall be the same as the method employed for the sale of lands, lots or premises for delinquent taxes.

Sections. 2-6. and 2.7. Reserved.

Article II. Council

Section 2-8. When regular Council meetings held.

The Council shall hold its regular monthly meeting on the second Monday of each month at 7:00 p.m.

Article III. Officers and Employees Generally.

Section 2-9. Reserved.

Section 2-10. Salaries, bonds, benefits for officers and employees.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance relating to salaries or bonds of Town officers and employees, or to social security, retirement or pension benefits for such officers and employees, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Section 2-11. Disclosure statement required to be filed.

In addition to those officials specified in Code of Virginia, § 2.2-3115, the following persons shall file the statement required in Code of Virginia, § 2.2-3115, namely:

- (1) The Town Mayor; and
- (2) The Town Treasurer.

Section 2-12. Bonding.

All full-time employees of the Town shall be bonded at the minimum rate of \$50,000 for each such employee.

Sections. 2-13. to 2-20. Reserved.

Article IV. Mayor

Section 2-21. To be purchasing agent.

The Mayor shall be the purchasing agent of the Town. He may delegate this authority only in accordance with written policies which have been expressly approved by the Town Council. Town policies must conform to the requirements of the Virginia Public Procurement Act as found in Code of Virginia, § 2.2-4300 et seq. For small purchases under the amount specified in the Code of Virginia Section 2.2-4303(G) applicable to local governments, the Town will conform to the purchasing procedures it has approved pursuant to that Section.

Section 2-22. Orders by Council and members to subordinates.

The individual members of the Town Council other than the Mayor shall refrain from giving orders to any employee of the Town, either publicly or privately without the specific approval or request of the Mayor. The Mayor shall have direct responsibility for oversight of the daily operations of the Town. The Mayor may, in his discretion, delegate responsibilities to council members, employees or committees.

Secs. 2-23-29. Reserved.

Article V. Town Attorney

Section 2-30. Attendance at Council meetings.

The Town attorney may attend Council meetings upon request of the Mayor or any Council member.

Section 2-31. Annual report.

By June 30th of each fiscal year, the Town attorney shall make an annual report to the Council, giving a condensed statement of the business done in his or her office for the Town in the year immediately preceding such report. This report shall contain a list of deeds, contracts and other instruments to which the Town was a party and for which the Town attorney was assigned responsibility. Such report shall also contain a statement of the unfinished business in the hands of the Town attorney with such suggestions with reference to the interest of the Town as he or she may deem pertinent.

Section 2-32. Compensation generally.

The Town attorney shall submit his or her itemized statement for services rendered on a monthly basis, or as otherwise agreed between the Town Council and the Town Attorney.

Section 2-33. Reimbursement for expenses.

Each month, the Town attorney shall present for payment any actual outlay or expense which the performance of his duties has entailed.

(Prior code, § 2-14)

Secs. 2-34--2-39. Reserved.

Article VI. Treasurer

Section 2-40. May also be Town Clerk.

The office of Town treasurer may, until otherwise provided by the Council, be held by the Town Clerk, and the Town treasurer, until otherwise provided by the Council, hold the office of Town Clerk. The Town treasurer will attend all Town Council meetings unless the Town Clerk is delegated by the Town treasurer to attend specific meetings.

Section 2-41. General Duties.

The treasurer shall be generally responsible for the financial oversight and management of the Town revenue and disbursements and financial recordkeeping. The treasurer is also responsible for management of human resources including payroll and benefits management. The specific job duties of the treasurer are detailed in a written job description, which may be amended from time to time by the Mayor.

Section 2-42. Town money in hands of treasurer to be safely kept.

All money belonging to the Town shall be deposited, by the Town treasurer, in the name of the Town, in such banks and other financial institutions as are designated by the Town Council. The Treasurer shall make daily deposits, to the extent practicable, of Town monies into such financial institutions as Town Council has designated.

State law references: Security for public deposits, Code of Virginia, § 2.2-4400 et seq.

Section 2-43. Record of receipts, disbursements and accounts generally.

It shall be the duty of the treasurer to keep, in accordance with generally accepted accounting practices for local government, accurate and reliable records in which all receipts and disbursements shall be properly entered and in which the accounts of all persons accountable to the Town shall be kept. Each fund shall be separated. All accounts of the Town shall be kept correctly and plainly.

Section 2-44. Record of checks issued.

The treasurer shall open and keep in a methodical manner, in accordance with generally accepted accounting practices for local government, a record and an account of all Town checks issued by him or her, showing number, date, to whom issued, on what account, amount and date of payment by the treasurer. Each month, the treasurer shall transmit a statement of the aggregate amount of checks outstanding and unpaid at the close of the month to the Council.

Section 2-45. Monthly financial statement.

The treasurer shall each month prepare a full statement to the Town Council of all receipts, disbursements and expenditures for the month preceding, which shall also show the liabilities and resources of the Town and the balance, if any, in his hands at that time, as well as all other things necessary to show the true financial condition of the Town.

Section 2-46. Administrative fees, etc. in connection with licenses.

For each Town license granted under and pursuant to the provisions of the Code and other ordinances of the Town, there shall be charged an administrative fee adopted by Town Council from time to time. Such fee shall be paid into the Town treasury.

Section 2-47. Fee for returned checks.

A fee of \$35.00 will be assessed for the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due to the Town treasurer or any other agent of the Town, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

Section 2-48. Authority for Signing Checks.

The Mayor, Vice-Mayor, Town Treasurer and Town Clerk are authorized to sign checks on behalf of the Town. Two authorized signatures shall be required on each check.

Section. 2-49. Authority to Receive funds.

Only the Mayor, the Town Clerk, Treasurer, and the Assistant to the Treasurer are authorized to receive Town monies.

Article VII. Town Clerk

Section 2-50. Attendance at Council meetings.

The Town Clerk will attend meetings of the Council if the Treasurer is absent.

Section 2-51. Duty to keep journal of Council proceedings; attestation and publication of ordinances, papers and proceedings.

The Town Clerk or treasurer shall keep an accurate journal of the proceedings of the Council. He or she shall attest and publish, as clerk, all ordinances or other papers or proceedings required by the Council to be published.

Section 2-52. Reserved.

Section 2-53. General duties.

In addition to the books of account and records provided for in the Charter, the Town Clerk shall keep such other books and records as may be necessary in the discharge of the functions of his or her office. The Town Clerk shall file and preserve all papers and records that come into his/her hands as clerk. The Clerk will have primary responsibility for receipt of payment for water, sewer and garbage bills, taxes and other monies collected by the Town and making the daily bank deposit. In the absence of the Treasurer the Clerk is responsible for writing checks when needed. The Clerk's job duties are more specifically detailed in a written job description, which may be amended from time to time by the Mayor.

Section 2-54. Examination of clerk's books and papers.

The books and papers of the Town Clerk shall, at all times, be subject to examination by any member of the Council or by any person designated by the Council.

Section 2-55. Duties with respect to book of ordinances and resolutions.

The Town Clerk shall enter in a book, or other authorized record, copies of each ordinance or resolution having the effect of an ordinance passed by the Town Council. The book in which ordinances and resolutions are thus entered shall be known as the "Ordinances and Resolutions at Large of the Town of Buchanan, Virginia" and shall be indexed.

Sections 2-56 to 2-90. Reserved.

Chapter 3

ANIMALS AND FOWL

Article I. In General

Section 3-1. Definitions.

“Foster care provider” means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

“Kennel, commercial” means an establishment for keeping, training, breeding, handling, selling, treating or boarding dogs, cats, or other household pets as a business. More than four (4) dogs or four (4) cats of six (6) months or greater in age kept upon any lot or premises for a fee or compensation shall be considered a commercial kennel.

“Kennel, private” means any building or land designed, arranged or used for the keeping, raising, showing, or training of more than four (4) dogs or four (4) cats over six (6) months or greater in age for the personal use of the owner or occupant of the property.

“Livestock” means all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; Cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined by the Virginia Code; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Section 3-2. Adoption of Botetourt County Code for Animal Control.

The Town of Buchanan adopts the Animal Control Ordinances of Botetourt County as set forth in Chapter 4 Animals and Fowl of the Code of the Botetourt County, Virginia.

Section 3-3. Livestock running at large, etc.

It shall be unlawful for any person to permit any Livestock to run at large in the Town or to graze in the streets or to obstruct the streets in any manner.

Section 3-4. Dogs running at large.

(a) No person shall cause or permit any dog owned or kept by owner to run at large on any street, alley or other public place or in any public hall, store, restaurant or theatre during the time that such place is open for public business, unless such dog is in the presence of and under the control by leash by the owner, keeper, or custodian of such dog.

(b) For the purpose of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's control by leash.

(c) Any person who permits his/her dog to run at large, or remain unconfined, unrestricted or not pinned up shall be deemed to have violated the provisions of this section.

(d) The requirements of this Section 3-4 shall not apply to a Town public facility as determined by Town Council and posted in writing at such facility. Each person shall control any dog using a designated Town public facility. Any dogs which are unresponsive to their owner's, keeper's, or custodian's control shall remain under control by leash. Any owner, keeper or custodian of a dog shall immediately remove the dog's excrement from any Town public facility.

Section 3-5. Limitation on number kept per dwelling unit.

(a) The harboring or keeping of more than four (4) dogs over six (6) months of age per dwelling shall be unlawful. The harboring or keeping of more than four (4) cats over six (6) months of age, of which no more than two (2) may be fertile per dwelling shall be unlawful. The requirements of this section shall not apply to any dwelling which is part of an active agricultural operation, or Kennel (commercial or private) as permitted by the Town's Zoning Ordinance.

(b) Any Foster Care Provider may be permitted to keep no more than six (6) dogs over six (6) months of age per dwelling for a period of ninety (90) days, unless an extension is granted by the foster program, so long as the person is in compliance with all of the regulations of the foster program.

Section 3-6 License.

It shall be unlawful for any person to own a dog four (4) months old or over in the Town of Buchanan, unless such dog is currently licensed pursuant to the provisions of the Botetourt County Code.

Section 3-7. Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.

(a) A dog license receipt shall be carefully preserved by the person to whom issued and exhibited promptly on request for inspection by the animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog, and it shall be unlawful for the owner to permit any licensed dog four (4) months old or over to run or roan at large at any time without a license tag; provided that the owner of the dog may remove the collar and license tag required by this section:

1. When the dog is competing in a dog show.

2. When the dog has a skin condition which would be exacerbated by the wearing of a collar;
3. When the dog is confined in an enclosure or in a Kennel; or
4. When the dog is under the immediate control of its owner.

(b) Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and, in any proceedings under this article, the burden of proof of the fact that such dog has been licensed or is otherwise not required to bear a tag at such time shall be on the owner of the dog.

(c) It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or the custodian.

Section 3-8 Impounding.

Any dog running at large in the Town, either with or without a license tag, may be impounded and kept at the County impounding facility. If such dog has upon it the name of the owner, or if the name and address is otherwise known, the owner shall be notified within twenty-four hours (24) after seizure of such dog, or within such time thereafter as the owner can be located using due care and diligence. The owner of any dog so impounded may contact the appropriate County authorities at the impounding facility. The owner's rights to the return of such dog shall be controlled by the applicable County laws, regulations and requirements.

Section 3-9 Removal of Excrement.

It shall be unlawful for any owner, keeper or custodian of a dog to fail to immediately remove the dog's excrement from any property other than the dog owner's property or other property in which permission is given, on which such dog had defecated. Any first violation of this section shall result in a warning of possible future penalty. Any conviction of a second or subsequent violation of this section shall, be punishable as a misdemeanor.

Section 3-10 Special provisions as to Commercial and Private Kennels.

(a) Having over four (4) dogs as defined in Sec. 3-5, will be defined as a Commercial Kennel or Private Kennel. All Kennels must be established in accordance with the Town's Zoning Ordinance.

(b) All Kennels shall consist of an enclosure with fixed partitions such as a fence or walls. The enclosed area must be large enough to permit each dog to stand, turn freely and sit or lie in a comfortable position. The construction of the Kennel must be such as to prevent the dogs from escaping, and to prevent their injury.

(c) Each dog maintained in a Kennel shall have clean water available at all times. The Kennel shall also have sheltered bedding for each dog.

(d) No Kennel shall be located within one hundred (100) feet from any residence other than that of the Kennel owner or operator. Solid waste must be removed on a regular basis and offensive odors and excessive insects are not permitted.

(e) The owner or operator of a Kennel shall securely fasten the license tag to the Kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the Kennel. A Kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding or participating in a field trial or show. Tags must be displayed on any dogs leaving the kennel in accordance with this Article.

(f) Kennels shall be inspected annually by the animal control officer who shall issue a certificate of approval therefore if all requirements of this Section have been met. This certificate of approval may thereafter be revoked if the Kennel owner or operator violates any of the requirements of this section.

(g) The provisions of this Section shall not apply to a Foster Care Provider.

Section 3-11 Special Provisions as to Service Animals.

Service animals are animals that have been licensed or trained to perform tasks that assist a person with a disability. Service animals may also be referred to as assistance animals, assist animals, or helper animals depending on animal's function. The use of service animals shall be as permitted by state and federal law, including but not limited to Virginia Code § 51.5-44, as amended.

Section 3-12 Violations.

It shall be a Class 1 misdemeanor for the owner of any dog which has caused a wound to any person to conceal or cause to be concealed such dog from any animal control officer or police officer. It shall be a Class 1 misdemeanor for any willful violation of the requirements of this division by any owner of a dangerous dog.

Section 3-13 Enforcement of Article.

The provision of this Article shall be enforced by County Animal Control officers, and any other persons designated by the Town Council of the Board of Supervisors of the County.

Chapter 3

Animals and Fowl

Article II. Keeping Cattle, Horses, Poultry, Rabbits, etc.

The keeping of no more than 6/8/10 (more ?) adult female chickens (hens) shall be permitted in residential lots as permitted by the town's Zoning Ordinance , subject to the following conditions:

- a. The owner of the chickens must reside on the property on which the chickens are kept and the principle use of the property must be a single-family dwelling.
- b. Chickens shall not be permitted to run at large and must be kept within a predator resistant coop or chicken enclosure at all times.
- c. Coops shall provide at least two (2) square feet of interior space per adult chicken and chicken enclosures shall provide at least ten (10) square feet of exterior space per adult chicken with a maximum total area of one hundred fifty (150) square feet for both the coop and chicken enclosure.
- d. Coops and chicken enclosures shall be setback at least ten (10) feet from side and rear property lines and at least thirty-five (35) { fifty (50)?} feet from any residential dwelling on an adjacent lot. Neither the coop nor chicken enclosure shall exceed ten (10) feet in height. Coops and chicken enclosures shall also be located behind the front building line of the principal structure on a lot.
- e. Coops and chicken enclosures shall be well ventilated and kept in a clean, dry and sanitary condition at all times. Provision shall be made for the storage and removal of all chicken waste (manure). Such waste shall not create a nuisance or health hazard to adjoining property owners.
- f. All chicken feed or other materials intended for consumption by chickens shall be kept in closed containers impenetrable by rodents, insects or predators.
- g. Prohibited is the keeping of roosters, capons and crowing hens and the outdoor slaughtering of chickens.
- h. The trespass of any chicken upon the property of another shall be considered a violation of this section and shall be punished as provided in Section 7-1 of the Town Code. Each time any chicken shall trespass upon the property of another shall be considered a separate offense.
- i. Chickens shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed. {?}

CHAPTER 4

AMUSEMENTS

Article I. Dance Halls

Section 4-1. Definitions.

Section 4-2. Exceptions to applications of chapter.

Section 4-3. Permit for operation, etc.

Section 4-4. Allowing person under eighteen years of age to enter, etc., while dancing is being conducted.

Section 4-5. When operation prohibited.

Section 4-6. Conduct or operation other than as provided in chapter as nuisance.

Section 4-7. Construction of chapter with reference to license taxes.

Section 4-8. Construction of chapter with reference to disturbance of peace, etc.

Section 4-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Person “Person” means any person, firm, club, Association, corporation, organization or group of persons.

Public dance halls “Public dance hall” means any place where dancing is permitted for which an admission fee is charged directly or indirectly by cover charge or otherwise; or where refreshment or food or any form of merchandise are served for compensation before, during or after dancing, and the sale of any refreshments, food, or any form of merchandise at such place, or the exhibiting of such for sale, shall be deemed direct compensation for any such dance hall as is contemplated in this section; or any place where any club, association, corporation, organization or group of persons conduct, operate or permit dances.

Section 4-2. Exceptions to applications of chapter.

This chapter shall not be construed to apply to dances held for benevolent or charitable purposes or when the same conducted under the auspices of religious, educational, or military organizations.

Section 4-3. Permit for operation, etc.

It shall be unlawful for any person to operate or conduct a public dance hall without a permit, which permit may be obtained from the Council. No such permit shall be issued unless the applicant provides satisfactory evidence that he has complied with all applicable provision of Botetourt County’s building code and the Virginia Public building Safety Law (Code of Virginia,

§27-63 et seq.) The permit to operate or conduct a public dance hall shall be a personal privilege, not transferable, and may at any time be revoked by the Council, without a public hearing, for cause deemed adequate by the Council.

Section 4-4. Allowing persons under eighteen years of age to enter, etc., while dancing is being conducted.

It shall be unlawful for any person, firm, club, association, corporation, organization or group of persons conducting a public dance hall to allow any person under the age of eighteen years to enter or to remain in such dance hall while dancing is being conducted therein, unless accompanied by a parent or legal guardian, or by a brother or sister over the age of eighteen years, except upon the written consent of the parent or legal guardian of such minor, in which event there shall be a separate and independent written consent for each afternoon or evening such minor enters or remains in such dance hall while dancing is being conducted therein.

Section 4-5. When operation prohibited.

It shall be unlawful for any person to operate or conduct a public dance hall, where dancing, music or entertainment of any kind is furnished or afforded, after 1:00 A.M. of any night.

Section 4-6. Conduct or operation other than as provided in chapter as nuisance.

To conduct or to operate a public dance hall in any manner or mode other than as is provided in this chapter shall, in addition to being unlawful, constitute a nuisance and be abatable as such. This remedy shall be considered a cumulative one and shall be enforced by the Town in a proper proceeding to be instituted by, and in the discretion of, the Council.

Section 4-7. Construction of chapter with reference to license taxes.

Nothing in this chapter shall be construed as exempting any public dance hall from the payment of any license tax now imposed or which in the future may be imposed.

Section 4-8. Construction of chapter with reference to disturbance of peace, etc.

Nothing in this chapter shall be construed as permitting any person to so conduct or operate such public dance hall as unnecessarily to disturb the peace, comfort and ordinary rest of the citizens generally residing in the neighborhood of the public dance hall in question.

Cross Reference: See Title 21 for Licenses of Circuses, Festivals and other such Amusements.

CHAPTER 5

BUILDINGS

Article I. In General.

Section 5-1. Fire District

Section 5-2-10. Reserved.

Section 5-11. Adopted; general construction standards.

Section 5-12. Permit and inspection fees.

Section 5-1. Fire district.

There is hereby established a fire district, which shall compromise all the territory within the Town limits of the Town of Buchanan.

Section 5-2 - 5-10. Reserved.

Article II. Building Code

Section 5-11. Adopted; general construction standards.

(a) There are hereby adopted by reference for the Town the provisions of the Virginia Uniform Statewide Building Code, as adopted and promulgated by the state board of housing and community development. Such code shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment, as defined by such code, and shall apply to existing and proposed buildings and structures in the Town.

(b) All construction, alteration or repair of buildings or structures, or the installation of plumbing, piping, wiring, mechanical or electrical equipment in or upon such buildings, structures or premises, shall be reasonably safe to persons and property and in conformity with the provisions of this Code, the Virginia Uniform Statewide Building Code and all orders, rules and regulations issued by authority thereof. Conformity of construction or installations of equipment with regulations set forth in the state code adopted by this section shall be prima facie evidence that construction or installations are reasonably safe to persons and property.

(c) The enforcement of this article shall be affected by the county of Botetourt, as authorized by Code of Virginia, § 36-105.

State law references: Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

Section 5-12. Permit and inspection fees.

The fees for permits and inspection required by the Uniform Statewide Building Code shall be as are prescribed by the Botetourt county board of supervisors and/or its building official from time to time, but in no event greater than like fees charged to other residents of the county.

Section 5-13. Remove, repair, or secure blighted structure.

As used in this Section, “blighted structure” shall mean any building, wall or any other structure that might endanger the public health or safety of other residents of the Town and shall include any structure that is (i) a menace to the public health, welfare, or safety, (ii) structurally unsafe, unsanitary, or not provided with adequate safe egress, (iii) structurally inadequate to prevent water intrusion or occupied by dangerous or unhealthy substances which have escaped, spilled, been released, or have been allowed to accumulate within the structure; (iv) a fire hazard, dangerous to human life, or no longer fit and habitable, (v) vacant or abandoned and determined by the Town to be an attractive nuisance; or (vi) otherwise determined by the Town, the county, or the commonwealth to be in violation of any building, housing, health, fire, or safety code, ordinance or regulation applicable to the structure.

“Reasonable notice” under this section includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the Town.

The owner of any property in the Town which contains a blighted structure shall, upon reasonable notice from the Town, remove, repair or secure such blighted structure within such time prescribed by the Town, which shall not be less than 30 days. Any such owner who fails to remove, repair or secure such blighted structure in accordance with this Section shall be subject to a civil penalty, which shall not exceed an aggregate total of \$1,000 for any series of specified violations arising from the same operative set of facts.

Upon violation of this Section, the Town may, upon reasonable notice, remove, repair or secure any such blighted structure, or, upon consent from the owner of the property, demolish such blighted structure. The cost or expense of any such action shall be chargeable to and paid by the owner of the property and may be collected by the Town as taxes are collected. The Town shall not take any action to remove, repair, secure or demolish any such blighted structure for at least 30 days after providing notice to the owner of the property, except that the Town may take action to prevent unauthorized access to the blighted structure within 7 days of such notice, if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

Chapter 6

ELECTIONS

Section 6-1. Governing body – Town Council.

Section 6-2. Election date.

Section 6-3. Voting place.

Section 6-4. Reserved.

Section 6-1. Governing body – Town Council.

The governing body of the Town of Buchanan, known as the Town Council, shall be elected by the qualified voters of the Town of Buchanan. **The manner, date, and place of Town Council elections shall be in accord with the provisions of the Charter of the Town of Buchanan and Section 24.2 of the Code of Virginia.**

Section 6-2. Election date.

Elections shall take place on the first Tuesday **after the first Monday in November** the year designated by the Charter of the Town of Buchanan. (Code of Virginia, Section 24.1-90).

Section 6-3. Voting place.

The voting place for the Town of Buchanan shall be at **Buchanan Elementary School on Schoolhouse Road** in the Town of Buchanan.

State law references: Polling places to be fixed by ordinance, Code of Virginia, § 24.2-308.

CHAPTER 7

EROSION & SEDIMENT

Section 7-1. Erosion and Sediment Ordinances of Botetourt County Adopted

The Town of Buchanan adopts the Erosion and Sediment Control Plan of Botetourt County as set forth in Chapter 10 of the Code of the Botetourt County, Virginia.

Comment: The Town of Buchanan is within the Mountain Castles Soil and Water Conservation District.

CHAPTER 8
EMERGENCY SERVICES

Section 8-1. Duties of the Sheriff's Department of Botetourt County at fires generally.

Section 8-2. Establishment and maintenance of fire lines.

Section 8-3. Blasting.

Sections 8-4 Reserved

Sections 8-5. Reserved.

Section 8-6. Storage, sale, discharge, etc., generally.

Section 8-7. Display pursuant to permit.

Section 8-8. Fire Chief for the Town of Buchanan Fire Station #3.

Section 8-9. Bylaws of the Town of Buchanan Fire Station #3.

Section 8-1. Reserved.

Section 8-2. Reserved.

Section 8-3. Blasting.

No person shall blast or carry on any blasting operations without having first secured therefore a permit from the Town Clerk. Blasting or blasting operations conducted pursuant to a permit shall be carried on subject to such conditions as may be expressed in the permit.

Section 8-4. Reserved.

Section 8-5 Reserved.

Section 8-6. Storage, sale, discharge, etc., generally.

No person shall store, possess, sell or subject to Section 8-7, discharge, set off or explode, in the Town, any firecrackers, Roman candles, sky rockets, torpedoes or like articles.

Section 8-7. Display pursuant to permit.

The Town Clerk upon application, at any time, issue a permit for the public display of fireworks within public parks or other places, open to the public, when the use of fireworks will be under the supervision and control of an expert in the handling of fireworks.

Section 8-8. Fire Chief for the Town of Buchanan Fire Station #3.

The election of the Fire Chief for the Town of Buchanan, Fire Station #3 shall be subject to the approval of the Council of the Town of Buchanan.

Section 8-9. Bylaws of the Town of Buchanan Fire Station #3.

The Bylaws of the Town of Buchanan Fire Station #3 and Amendments thereto shall be effective subject to their approval and confirmation by the Council of the Town of Buchanan.

CHAPTER 9

GARBAGE REFUSE AND CONDITION OF PREMISES.

Section 9-1.	Definitions.
Section 9-2	Refuse containers to be provided by owners, etc., of residence, etc.
Section 9-3	Location of refuse containers
Section 9-4	Containerization of household waste
Section 9-5	Collection and disposition of bulk refuse
Section 9-6	Keeping or storing old lumber, building materials, logs, or truck bodies.
Section 9-7	Removal of trash, garbage, etc., from property.
Section 9-8	Residential property to be kept free of litter.
Section 9-9	Duty of property owners or occupants to keep sidewalks free of litter.
Section 9-10	Areas near business, industry, or institution to be kept free of litter.
Section 9-11	Sweeping litter into streets.
Section 9-12	Control of litter at construction or demolition site.
Section 9-13.	Unlawful disposal generally.
Section 9-14.	Unlawful discarding or dumping of solid waste, junk, etc.
Section 9-15.	Escape of vehicle loads.
Section 9-16.	Removal of glass, etc., dropped from vehicle.
Section 9-17.	Littering by persons distributing handbills, leaflets, etc.
Section 9-18	Discarding or abandoning iceboxes
Section 9-19	Portable Storage Containers
Section 9-20	Removal of litter from private property by Town.
Section 9-21	Notice of fixed date for removal of garbage; penalty.
Section 9-22	Violations of Chapter generally.
Section 9-23	Arrests, issuance and initiation of prosecution for violations of Chapter.

Section 9-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a difference meaning.

Institution means any public or private establishment which educates, instructs, treats for health purposes or otherwise performs a service or need for the community, region, state or nation.

Litter means all waste materials, including but not limited to, bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, and disposable packages or containers thrown or deposited as prohibited as this article, but not including properly disposed of waste from the primary processes of mining, logging, saw-milling, farming or manufacturing.

Litter receptacle means a container with a capacity of not less than ten (10) gallons, constructed and placed for use as a depository for litter.

Person means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary or representative or group of individuals or entities of any kind.

Private property means property owned by any person, including but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, any body of water, vacant land and recreation facilities.

Public property any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to, highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds or other bodies of water.

Town dump means the landfill site designated by and for the Town of Buchanan.

(Comment: This is former Section 9-4 moved to join the remaining definitions.)

Vehicle means every device capable of being moved upon a public highway or public waterway and in, upon, or by which any person or property may be transported or drawn upon a public highway or waterway, and shall also include any watercraft, boat, ship, vessel, barge or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracks, or used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated on any public highway for purposes other than crossing such public highway, or along such highway between two (2) tracts of the owner's land.

Section 9-2. Refuse containers to be provided by owners, etc., of residences, etc.

It shall be the duty of every owner, lessee or occupant of every residence and every building or place of business in the Town of Buchanan to provide at all times suitable and sufficient sanitary refuse containers which shall be leak proof with tightfitting tops and handles, and in conjunction with such containers, other containers, such as plastic bags, of adequate strength to hold and retain all garbage and liquid substances, and whatever rubbish may be mixed therewith, from such building, residence or place of business.

(b) Each owner, lessee or occupant of every residence and every building or place of business shall deposit, in the containers required by this section, any refuse, garbage, liquid substances and rubbish of any sort to be collected and disposed of. Such owner, lessee or occupant shall be responsible for any spillage of garbage that may occur from the container by wind, animal or any other cause.

(c) The sanitation workers of the Town shall not be required to empty any refuse container which, together with its contents, weighs in excess of 50 pounds.

Section 9-3. Location of refuse containers.

The refuse containers referred to in Section 9-2 shall be kept upon the premises at places convenient and satisfactory to the residents; provided, however, that in the central business section of Town, merchants and persons living over stores shall place such refuse containers upon the sidewalks of the Town only during the hours and days designated for the collection for garbage and rubbish. Business establishments using dumpsters for garbage and trash will wherever possible, place such dumpster on the back side of the building. In addition, those properties subject to the Landscape and Parking Ordinance, Section 210 of the Zoning Code of the Town of Buchanan will be required to comply with Section 210(A)(4)(c)(3).

Section 9-4. Containerization of household waste.

All household solid waste shall be containerized and placed for collection according to the requirements of sections 9-4 2 and 9-2-3 of this chapter. This section shall not apply to:

- (1) Excess material as a result of special circumstances, such as a holiday.
- (2) Items too large to fit into containers, such as, but not limited to, household appliances, furniture and mattresses.

Section 9-5. Collection and disposition of bulk refuse.

(a) Refuse that cannot be collected in a load-packer truck, such as tree limbs, shrubbery trimmings, leaves, brush, cinders, ashes, old roofing and building materials, shall be forthwith disposed of by the property owner. In the event the property owner cannot dispose of such materials, the Town may, upon request, arrange for the disposal thereof, provided the charge for such removal shall be negotiated between the property owner and such person or corporation that shall contract for such disposal. (Code of Virginia, Section 15.1—11). The person requesting the service shall pay such charge before the refuse is collected.

(b) In no event shall hazardous waste or household hazardous waste, as defined in Code of Va., § 10.1-1400, as amended, be placed out for collection or be collected by the Town.

(b) (1) Prohibited items include: tree stumps or root balls, dead animals, automobile or motorcycle parts, automobile tires, machinery, waste material produced in the construction, remodeling, repair, or demolition of buildings, homes, industrial plants, pavements and structures including but not limited to, lumber, concrete, asphalt, fencing, roofing materials, plaster, gypsum board, piping, paint and all other similar items, herbicides, insecticides, household cleaners, or any other material deemed unsafe for collection.

(c) Only refuse generated within Town limits may be disposed of under this ordinance.

(d) All contractors, required to be licensed by state law, who perform major work on a property and produce waste material from this work shall be responsible for removing the waste from the property and legal disposing of it in an approved landfill or other facility.

Section 9-6. Keeping or storing old lumber, building materials, logs, or truck bodies.

It shall be unlawful for any person to keep or store old lumber, building materials, logs, truck bodies, old cars, or other similar things or materials on lots within the Town of Buchanan, in such manner as to endanger the health or safety of other residences of the Town

Section 9-7. Removal of trash, garbage, etc., from property in general.

(a) Trash, garbage, refuse or litter openly lying on any parcel which might endanger the health or safety of the residents of the Town shall constitute a public nuisance. It shall be unlawful for the owner or occupant of such parcel to permit the accumulation thereon of any trash, garbage, refuse or litter. It shall be the joint and several duty of the owner and occupant of any parcel to immediately remove trash, garbage, refuse, or litter from his, her or its parcel.

(b) When the Town manager determines that a violation of this Section exists with respect to any parcel, the manager shall deliver written notice to the owner or occupant of such parcel. The notice shall describe the violation, demand removal, provide the time period by which corrective measures must be completed, advise that the Town's costs will constitute a lien on the property, and provide the opportunity to meet with the Town manager to discuss the alleged violation. If the owner or occupant shall fail to complete the removal of any trash, garbage, refuse, or litter within the reasonable time specified in the written notice, the Town manager may direct that Town forces abate the violation. In the alternative, the Town manager may contract for this work to be done by a private contractor. In any case where the Town has delivered written notice to the owner or occupant, the costs and expenses of any Town action to abate a violation of this Subsection shall constitute a lien against the property.

(c) The owner or occupant may place on the curbside or in the public right-of-way immediately adjacent to the parcel, but not in any location which shall hinder or endanger the flow of traffic or pedestrians, one or more waste containers, as provided by the Town, and place in such waste containers, which shall remain completely enclosed, trash, garbage, refuse, litter, or other substances to be collected by the Town, or a private contractor contracted by the Town to perform such collection. Waste containers may be placed in accordance with the preceding sentence no more than twenty-four (24) hours prior to the scheduled collection of such trash, garbage, refuse, litter, or other substances, and must be removed from the public right-of-way no more than twenty-four (24) hours after such collection, and must otherwise be stored out of the public view or at the rear of the primary building on the parcel. "Public view" for purposes of this subsection shall be defined as "the area which is viewable from any public right-of-way."

(d) Any owner who fails to remove any trash, garbage, refuse, litter, or other substances or any waste container in accordance with this Section shall be subject to a civil penalty, which

shall not exceed \$50 for the first violation, and which shall not exceed \$200 for any subsequent violation. Any civil penalty issued in accordance with this Section shall be in lieu of any criminal penalty for the same offense, except as permitted by Virginia law for repeat offenses, and shall constitute a lien against the property. Each business day during which the same violation is found to have existed shall constitute a separate offense, The aggregate total of civil penalties assessed to the owner of such property under this Section shall not exceed a total of \$3,000 in any 12-month period for any series of specified violations arising from the same set of operative facts.

(e) The costs, expenses, and penalties imposed under this Section, including reasonable attorneys' fees to enforce the collection of such costs, expenses, or penalties, may be collected by the Town by any lawful meaning, including, without limitation, collection as taxes are collected and filing of a civil action for judgment in the General District Court or the Circuit Court for the County of Botetourt against the owner or occupant of the subject parcel.

Section 9-8. Residential property to be kept free of litter.

It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. These areas shall include, but not be restricted to, sidewalks, alleys, driveways, yards, grounds, fences, walls, property lines, drainages and vacant lots in residential areas.

Section 9-9. Duty of property owners or occupants to keep sidewalks free of litter.

Each owner, agent, occupant or lessee whose property faces on Town sidewalks, or strips between streets and sidewalks, shall be responsible for keeping such sidewalks or strips free of litter.

Section 9-10. Areas near business, industry or institution to be kept free of litter.

It shall be the duty of each proprietor and each operator of any business, industry or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not restricted to, public and private sidewalks, roads, alleys, grounds, parking lots, loading and unloading areas, and all vacant lots which are owned or leased by such establishment or institution.

Section 9-11. Sweeping litter into streets.

It shall be unlawful for any person to sweep or push litter from sidewalks into streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animals.

Section 9-12. Control of litter at construction or demolition sites.

(a) It shall be unlawful for any owner, agent or contractor to permit the accumulation of litter before, during or after completion of any construction or demolition project.

(b) It shall be the duty of the owner, agent or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain, to prevent scattering, other bulk litter or a daily basis. All litter shall be removed from such site not less than once a week.

Section 9-13. Unlawful disposal generally.

(a) It shall be unlawful for any person to drop, deposit discard or otherwise dispose of litter in or upon any public or private property within the Town including, but not restricted to, any street, sidewalk, park, body of water or vacant or occupied lot, except in public litter receptacles or in authorized private litter receptacles provided for public use, and except in an area designated as a Town landfill or an area designated by the state department of health as a permitted disposal site or a landfill or disposal area approved pursuant to the Code of the Town of Buchanan.

(b) When a violation of the provisions of this section has been observed by any person and the litter dumped or disposed of was ejected from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting the litter; provided, however, that such presumption shall be rebuttable by competent evidence.

(c) A violation of any provision of this section shall constitute a Class 1 misdemeanor.

Section 9-14. Unlawful discarding or dumping of solid waste, junk, etc.

(a) It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture or any other material or equipment, on public or private property, except by written consent of the owner of such private property, or except in receptacles provided for public use for the deposit of such material, or except in an area lawfully designated as a permitted disposal site.

(b) A violation of any provision of this section shall constitute a Class 1 misdemeanor.

Section 9-15. Escape of vehicle loads.

(a) No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that sand or any substance to increase traction or water or other substances may be applied on a roadway in the cleaning or maintenance of such roadway by the state or local government agency having such responsibilities.

(b) No vehicle used to transport litter or other items likely to fall or be blown from such vehicle shall be driven, moved, stopped or parked on any highway, unless such vehicle is covered to prevent its contents from blowing, dropping or falling from such vehicle.

(c) A violation of this section shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

State law reference — Vehicles to be constructed so as to prevent escape of loads, Code of Virginia, Section 46.2-1156.

Section 9-16. Removal of glass, etc., dropped from vehicle.

(a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would cause an obstruction or damage a vehicle or otherwise endanger travelers on public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay any costs therefor.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

State law reference — Similar provisions, Code of Virginia, Section 18.2-324.

Section 9-17. Littering by persons distributing handbills, leaflets, etc.

It shall be unlawful for any person distributing commercial handbills, leaflets, flyers or any other advertising of informational material to distribute material in such a manner that it litters either public or private property.

Section 9-18. Discarding or abandoning iceboxes

(a) It shall be unlawful for any person, firm, or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two (2) cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any violations of the provisions of this section shall be punishable as a Class 3 misdemeanor. (Va. Code § 18.2-319)

Section 9-19. Portable Storage Containers

(a) A “Portable storage container” is defined as: A portable, weather-resistant receptacle designed and used for the storage and shipment of household goods, wares, building materials or merchandise.

(b) Portable storage containers located outside of an enclosed building or structure shall be allowed only as specified in this section and subject to the following regulations.

(c) It shall be unlawful for any owner or occupant of residential or commercial property to keep, place, store, or maintain or allow to be kept, placed, stored or maintained any portable storage unit for over sixteen calendar days in any area zoned residential, Commercial or Trade as defined in the zoning ordinance without a permit from the Zoning Administrator. No more than one portable storage unit with a maximum size of sixteen feet long, eight feet wide and eight and one-half feet high, or no more than three smaller portable storage units with a combined cubic footage of less than one thousand eighty eight cubic feet, with no more than one sign on each unit no larger than six square feet shall be permitted per residential or commercial or trade property address. The placement of a portable storage container shall be on all sides at least 10 feet from any property line, and not in front of the front setback for any zone.

(d) Portable storage containers shall only be allowed during construction, reconstruction, alteration or renovation of the principle structure and for an additional period of twenty-four hours before and after such activity, but not to exceed a total of thirty days in any six-month period.

(e) Portable storage containers shall be allowed for a period not exceeding sixteen days when used in connection with the moving or relocation of a commercial establishment located or to be located on the site.

Section 9-20. Removal of litter from private property by Town.

Ten (10) days after due notice is given to any owner, agent, occupant or lessee of any private property to remove litter from the premises, the Town is authorized to clean up such private property and bill the owner or his agent for the costs thereof. If the bill has not been paid within thirty (30) days, the Town may proceed to judgment for the costs thereof through the regular civil processes.

State law reference — Authority for above section, Code of Virginia, Section 15.1—11. (15.2-901)

Section 9-21. Cutting of grass, weeds, and other foreign growth

(a) It shall be unlawful for the owner or occupant of any parcel to permit the accumulation thereon of any grass, weeds, and foreign growth at a height greater than twelve (12) inches. It shall be the joint and several duty of the owner and occupant to cut the grass, weeds and other foreign growth on such property.

(b) When the Town manager determines that a violation of this Section exists with respect to any parcel, the manager shall deliver written notice to the owner or occupant. The notice shall describe the violation, demand removal, provide the time period by which corrective measures must be completed, advise that the Town's costs will constitute a lien on the property, and provide the opportunity to meet with the Town manager to discuss the alleged violation.

(c) Any such owner who fails to cut such grass, weeds, or other foreign growth shall be subject to a civil penalty, which shall not exceed \$50 for the first violation, and which shall not exceed \$200 for any subsequent violation. Any civil penalty issued in accordance with this Section shall be in lieu of any criminal penalty for the same offense, except as permitted by Virginia law for repeat offenses, and shall constitute a lien against the property. Each business day during which the same violation is found to have existed shall constitute a separate offense. The aggregate total of civil penalties assessed to the owner of such property under this Section shall not exceed a total of \$3,000 in any 12-month period for any series of specified violations arising from the same set of operative facts.

(d) Upon violation of this Section, the Town may, upon reasonable notice, cut such grass, weeds, or other foreign growth, in which event the cost or expense of such action shall be chargeable to and paid by the owner or occupant of the property and shall constitute a lien against the property. For purposes of this Section, one written notice per growing season to the owner of the property shall be considered reasonable notice.

(e) The costs, expenses, and penalties imposed under this Section, including reasonable attorneys' fees to enforce the collection of such costs, expenses, or penalties, may be collected by the Town by any lawful meaning, including, without limitation, collection as taxes are collected and filing of a civil action for judgment in the General District Court or the Circuit Court for the County of Botetourt against the owner or occupant of the subject parcel.

(f) For purposes of this Section, the terms "weeds" and "foreign growth" shall apply to any brush and any other undesirable growth.

(g) This Section shall not apply to any parcel zoned for or in active farming operation, cultivated crops, ornamental shrubbery, trees, undisturbed woodland, vegetable and flower

gardens, ground cover purposefully planted for bank stabilization, or hay grown, mown, and stored for animal feed.

Section 9-22. Violations of Chapter generally.

Unless otherwise specifically provided, a violation of any provision of this Chapter shall constitute a Class 4 misdemeanor.

Section 9-23. Arrests and initiation of prosecution for violations of article.

(a) Enforcement officers of the Town of Buchanan, the County Sheriff's department, the state police, the state game commission and the state division of forestry are hereby empowered to issue citations to, or arrest, person violating any provision of this article, and may serve and execute all warrants and other process issued by a court in enforcing the provisions of this article. In addition, mailing by registered mail of such process to his last known place of residence shall be deemed as personal service upon the person charged, for the purposes of this article.

(b) Prosecution for a violation of any provision of this article may be initiated by any law-enforcement officer or private citizen who witnesses the offense or who discovers an article of litter bearing a person's name or address on the private property of another or on public property, except property that is designated for solid waste disposal.

Comments: **State law references:** Local contracts for the supply of solid waste to resource recovery facilities, Code of Virginia, § 10.1-1412; removal of trash, garbage, weeds, etc., Code of Virginia, § 15.2-901; waste and recycling, Code of Virginia, § 15.2-927 et seq.

CHAPTER 10

RESERVED

CHAPTER 11

MANUFACTURED HOMES

Article I. In General

- Section 11-1. Definitions
- Section 11-2. Inspection of automobile trailer camps.
- Section 11-3. Removing wheels from trailer or otherwise affixing it to the ground.
- Section 11-4. Trailers on individual lots, parking and single trailers.
- Section 11-5. Rules and regulations of health officer.
- Section 11-6. Penalty for violation of chapter.

Article II. Licenses and Automobile Trailer Camps.

- Section 11-7. Prerequisite to establishment, etc.
- Section 11-8. Application therefor.
- Section 11-9. Investigation of character of applicant.
- Section 11-10. Investigation of premises specified in application.
- Section 11-11. Issuance or refusal generally.
- Section 11-12. License tax.
- Section 11-13. Revocation.
- Section 11-14. Appeal from refusal to direct issuance and from revocation.
- Section 11-15. Posting.

Article III. Miscellaneous Requirements for Automobile Trailer Camps.

- Section 11-16. Location within business or industrial district.
- Section 11-17. Drainage.
- Section 11-18. Space per trailer.
- Section 11-19. Distance between trailers, etc.
- Section 11-20. Arrangement of trailers in rows.
- Section 11-21. Water supply and connection for each trailer space.
- Section 11-22. Sewer connections and disposition of waste water from plumbing fixtures.
- Section 11-23. Sanitary facilities for trailers not equipped with individual toilet facilities.
- Section 11-24. Disposition of garbage, etc.
- Section 11-25. Lighting at night.
- Section 11-26. Areas for recreational uses.
- Section 11-27. Fire extinguishers.
- Section 11-28. Heating appliances and fuel.
- Section 11-29. Electricity.

Article I. General.

Section 11-1. Definitions.

Unless it shall be apparent from the context and use that a different meaning is intended, for the purpose of this chapter, certain words and phrases are defined as follows:

Automobile trailer camp. “Automobile trailer camp’ means any camp site, camp ground, trailer court or any place, lot or tract of land upon which is located one or more trailers, or is held out for the location of any trailer, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment *for* such automobile trailer park.

Trailer. “trailer’ means any trailer, trailer coach or camp automobile, or any unit used for living and sleeping purposes, -and which may be, or is intended for transport from one place to another, whether by motive power or otherwise.

Trailer lot “Trailer lot” means a unit of land used or intended to be used by one trailer, whether in an automobile trailer camp or not.

Section 11-2. Inspection of automobile trailer camps by Sheriff’s Department.

A representative of the Sheriff’s Department of Botetourt County shall inspect each automobile trailer camp, located within the Town, periodically at least once each thirty days, to see that the provisions of this chapter are complied with.

Section 11-3. Removing wheels from trailer or otherwise affixing it to the ground.

It shall be unlawful for any person owning or operating an automobile trailer camp to remove, or cause to be removed, or permit the removal of, the wheels, or any similar transporting devices, except for necessary repairs, from any trailer or otherwise to permanently fix or attach such trailer to the ground. Any alteration of, addition to, or removal of the wheels from any trailer, as above set forth, shall be construed as removing such trailer from the provisions of this chapter and converting it into a dwelling, and it shall, thereupon, be subject to the requirements of all provisions of this Code and other ordinances of the Town relative to dwellings.

Section 11-4. Trailers on individual lots, parking and single trailers.

Where applicable, the provisions of this chapter, including those relative to licenses and license taxes, shall -be construed as covering the parking of individual trailers on individual lots not in automobile trailer camps, as well as automobile trailer camps; provided, however, that the provisions of this chapter shall not be construed to prohibit the temporary parking of a single trailer on the premises of a member of the immediate family of the occupants of the trailer for ninety days in the event of illness requiring the owners of the trailer to be located temporarily

near their family or in case of fire or other disaster making it necessary to locate on the property of a member of the immediate family, subject to the following conditions:

(1) Written consent shall first be secured from all property owners in the block on the street on which the trailer is to be located, as well as each block adjacent to the block on which said trailer is to be located.

(2) Plumbing shall be connected to the sewer and water lines of the main dwelling or to the Town's water and sewer lines and approved by the health department in either case.

(3) A permit shall be obtained from the Town Council after the other requirements of this section have been met.

Section 11-5. Rules and regulations for health officer.

The health officer shall have power to formulate and promulgate rules and regulations governing automobile trailer camps, which rules and regulations shall not be in contravention of this chapter or of the provisions of state law applicable to trailer camps.

It shall be unlawful for any person to violate any of the rules and regulations formulated and promulgated by the health office governing automobile trailer camps.

Section 11-6. Penalty of violation of chapter.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not less than fifty dollars nor more than five hundred dollars.

Comment : Former section 20-7.

Article II. Licenses and Automobile Trailer Camps.

Section 11-7. Prerequisite to establishment, etc.

It shall be unlawful for any person to establish maintain or operate, within the Town, any automobile trailer camp without first having secured a license therefor from the Town treasurer as provided in this article.

Comment: Former Section 20-8.

Section 11-8. Application therefor.

Any person desiring a license as required in Section 11-7 shall make application therefor in writing, to the Town treasurer, stating his name and address and the location and general -layout of the proposed automobile trailer camp, together with detailed plans and specifications of the water supply, electric wiring plans, parking facilities, provisions for sewage and garbage disposal of such proposed automobile trailer camp, and such other information as the Town may deem necessary.

Section 11-9. Investigation of character of applicant.

Upon the filing of an application as provided by Section 11-8, the treasurer shall give notice thereof to a representative of the Sheriff’s Department of Botetourt County, Upon receipt of such notice, the representative of the Sheriff’s Department of Botetourt County shall make, or cause to be made, an investigation of the character of the applicant, and shall file a report, relative to the result of his investigation, with the Town Council.

Comment: Former Section 20-10

Section 11-10. Investigation of premises specified in application.

Upon the filing of an application, as provided by Section 11-8, the treasurer shall give notice thereof to the Town Council, upon receipt of such notice, the Town Council may investigate the premises whereon the automobile trailer camp in question is to be located.

Comment: Former Section 20-11

Section 11-11. Issuance or refusal generally.

If it shall appear to the Town Council from the report filed by the representative of the Sheriff’s Department of Botetourt County, as provided in Section 11-9, that the applicant in question is a proper person to receive the license applied for and if it shall appear to the Town Council, on the evidence adduced upon the investigation provided for in Section 11-10, that the premises in question complies with the provisions of Code and other ordinances of the Town and laws of the state relating to automobile trailer camps or to trailer camps, the Town Council shall direct the issuance of the license applied for, but otherwise shall, subject to Section 11-13, refuse to direct the issuance of such license.

Comment: Former Section 20-12.

Section 11-12. License tax.

Upon the issuance of a license pursuant to the direction of the Town Council, as provided in Section 11-11, a license tax of five dollars per year per trailer shall be paid into the Town treasury and placed in the general fund of the Town.

Section 11-13. Revocation.

Any license issued pursuant to the direction of the Town Council, as provided in Section 11-11, may be revoked by the Town Council at any time for failure to comply with the provisions of this Code or other ordinances of the Town or laws of the state or regulations of the-state board of health regarding public health, applicable to automobile trailer camps or trailer camps.

Section 11-14. Appeal. Reserved.

Section 11-15. Posting.

It shall be unlawful for any person to whom a license has been issued pursuant to the direction of the Town Council, as provided in Section 11-11, to fail, neglect or refuse to post and keep posted at all times in a conspicuous place on the premises in question, the license so issued to him.

Article II. Miscellaneous Requirements for Automobile Trailer Camps.

Section 11-16. Location within business industrial district.

No automobile trailer camp shall be established, maintained or conducted within the Town except as provided in the Zoning Ordinance.

Section 11-17. Drainage.

Every automobile trailer camp shall be located on a well-drained area and the premises graded so as to prevent the accumulation of storm, casual or surface water.

Section 11-18. Space per trailer.

Every automobile trailer camp shall be so laid off as to provide a space of not less than one thousand five hundred square feet for each trailer; provided, however, that each trailer space shall contain at least one thousand square feet of ground exclusive of the ground underneath the vehicle, as required in Code of Virginia, Section 35-67.

Section 11-19. Distance between trailers, etc.

In an automobile trailer camp, no trailer shall be closer than fifteen feet to any other trailer. Trailers shall otherwise conform to set-back requirements stated in the Town Zoning Ordinances applicable to single family dwellings in the same zoning district.

Section 11-20. Arrangement of trailers in rows.

In an automobile trailer camp, the trailers shall be arranged in rows abutting or facing on a graveled or paved driveway or on an unoccupied space of not less than twenty feet in width. Where there is provided a continuous driveway, with an entrance and exit to a public highway, the driveway shall be graveled or paved and not less than sixteen feet in width, which driveway or space shall have unobstructed access to a public Street or road.

Comment : Former Code Section 20-21

Section 11-21. Water supply and connections for each trailer space.

An adequate supply of water from the Town water system, for drinking and domestic purposes, shall be supplied by the owner, or operator to meet the requirements of each automobile trailer camp. Each trailer space in any automobile trailer camp shall have a separate and independent water tap or connection permanently installed and ready to be connected to the plumbing fixtures within each trailer.

Comment : Former Code Section 20-22.

Section 11-22. Sewer connections; disposition of waste water from plumbing fixtures.

Each trailer space in an automobile trailer camp shall have a separate and independent sewer connection connected with the Town sanitary sewer system, permanently installed and ready to be connected to the plumbing fixtures within each trailer. All such sewer connections and appurtenances shall be installed and maintained in accordance with the Botetourt County Plumbing Code. It shall be unlawful for any person to permit any waste water or materials from sinks, baths, showers or other plumbing fixtures, in any automobile trailer camp, to be deposited upon the surface of the ground and all such fixtures, when in use, shall be connected to the sanitary sewer system.

Section 11-23. Sanitary facilities of trailers not equipped with individual toilet facilities.

There shall be provided in every automobile trailer camp one room equipped with one water closet, one lavatory and one bathtub or shower for each sex and there shall be provided an additional water closet, lavatory and bathtub or shower for each sex for every ten or fractional part thereof in excess of ten males or ten females occupying trailers in such trailer camp, for trailers are not equipped with individual toilet facilities. One of such rooms shall be distinctly marked "Men" and one of such rooms shall be distinctly marked "Women" or "Ladies". The rooms for such toilet facilities shall be separated by a sound resistant wall. A vestibule or screen wall shall be provided to prevent direct view into the toilet room when exterior doors are open.

Section 11-24. Disposition of garbage, etc.

Each trailer space in an automobile trailer camp, while occupied by a trailer, shall have at least one metal watertight container of a capacity of not more than thirty gallons nor less than fifteen gallons, with a close-fitting cover, for the deposit of garbage, refuse, rubbish and the like. Such waste and garbage receptacles shall, at all times, be maintained in a clean and sanitary condition. The provisions of this Code and other ordinances of Town relative to the collection and disposal of garbage and trash shall be complied with.

Section 11-25. Lighting at night.

Every automobile trailer camp shall be provided with adequate means of lighting such automobile trailer camp at night. Such sufficient lighting facilities shall be kept lighted during the time from one-half hour after sunset until one-half hour before sunrise.

Section 11-26. Areas for recreational uses.

In each automobile trailer camp, at least two hundred square feet per trailer space shall be made available for recreational uses. These areas shall be located so as to be free of traffic hazards.

Section 11-27. Fire extinguishers.

Each automobile trailer camps shall provide and have available for use at convenient and accessible points at least one portable fire extinguisher for each five trailer spaces laid out in the automobile trailer camp in question.

Section 11-28. Heating appliances and fuel.

The provisions of this section relative to heating appliances fuel shall apply...to all automobile trailer camps in the Town. All heating appliances and fuels shall meet the rules, regulations and requirements of the National Board of Fire Underwriters. Any trailer using liquefied petroleum gas shall comply with, and be subject to, the provisions of this Code and other ordinances of the Town relative to standards for liquefied petroleum gas equipment and its use.

Any person occupying a trailer using oil as a fuel shall store such oil in a cylinder which shall be connected to the stoves or heaters of the trailer by copper or other metallic tubing and shall have leak-proof connections. Such oil cylinders shall be securely fastened in place, not less than five feet from any trailer exit.

Section 11-29. Electricity.

Every automobile trailer camp shall be provided with electric power. An electric outlet supplying 110-220 volts shall be provided for each trailer space in an automobile trailer camp. Such outlets shall be weatherproof and in easy reach of the parked trailer. No power line crossing an automobile trailer camp area shall be less than eighteen feet above the ground. Service drops to

each trailer space in an automobile trailer camp shall be weatherproof, insulated and not smaller than two number 8 wires. Adequate over-current protection shall be provided on all circuits in each automobile trailer camp. All electric wiring in every automobile trailer camp shall be installed and maintained in accordance with the Botetourt County Electrical Code.

CHAPTER 12

Motor Vehicles and Traffic.

Article I. In General

- Section 12-1. Definitions
- Section 12-2. Compliance with chapter; general penalty for violations.
- Section 12-3. Disposition of fines and fees under chapter.
- Section 12-4. Chapter applicable to drivers of vehicles regardless of ownership.
- Section 12-5. Persons riding bicycles or mopeds or riding or driving animals.
- Section 12-6. Utility Ordinance

Article II. Parking.

- Section 12-7. Powers of Town with reference to parking.
- Section 12-8. Parking prohibited in specific places.
- Section 12-9. Parking on streets on which parking time limit is designated by signs.
- Section 12-10. Parking to be in accordance with signs, signals, etc.
- Section 12-11. Parking for more than five days.
- Section 12-12. Limitation on parking of vehicle containing livestock.
- Section 12-13. Reserved.
- Section 12-14. Parking regulations to facilitate removal of snow.
- Section 12-15. Changing oil in or greasing vehicle on street or sidewalk.
- Section 12-16. Backing to curbs.
- Section 12-17. Manner of using loading zones.
- Section 12-18. Manner of using bus stops and taxicab stands.
- Section 12-19. General regulations governing private and public property.
- Section 12-20. Penalty for parking violations; ticketing procedure; etc.
- Section 12-21. Penalty for violations of this article.
- Section 12-22. Presumption in prosecution for parking violations.

Article III. Abandoned vehicles.

- Section 12-23. Abandoned motor vehicles, definitions.
- Section 12-24. Abandoned vehicles taken into custody.
- Section 12-25. Notice to owner of vehicles taken into custody.
- Section 12-26. Sale of vehicle at public auction; disposition of proceeds.
- Section 12-27. Vehicles abandoned in garages.
- Section 12-28. Disposition of inoperable abandoned vehicles.
- Section 12-29. Surrender of certificate of title where vehicle acquired for demolition.

Article I. In general.

Section 12-1. Definitions.

(a) Pursuant to the authority of Section 46.2-1300 and 46.2-1308, of the code of Virginia, all of the provisions and requirements of the laws of the state contained in Title 46,2 and Article 2, Chapter 7 (SS 18.2-266 et. seg.) of Title 18.2 of the Code of Virginia and in force on the date of adoption of this code revision, and any subsequent amendments thereto except those provisions and requirements the violation of which constitutes a felony and except those provisions and requirements which, by their very nature, can have no application to or within the Town, are hereby adopted and incorporated in this chapter and made applicable within the Town.

(b) References to “highways of the state” contained in the provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the Town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision of the state law which is adopted by this section; provided, however, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under state law

(c) This adoption of state law shall be retroactively and prospectively effective for said year by adoption of this article by the Town Council. Such provisions and requirements are hereby adopted and made a part of this chapter as fully as though set forth at length in this section, and it shall be unlawful for any person within the Town to violate, or fail, neglect or refuse to comply with, any provision of Code of Virginia, title 46.2, which is adopted by this section; provided, however, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, title 46.2.

(d) All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases, when used in this chapter, unless clearly indicated to the contrary

Comment: Subsections (a) and (b) are former section 12-6 and subsection (c) is suggested by the Town of Vinton Code.

Section 12-2. Compliance with chapter: general penalty of violations.

It shall be unlawful for any persons to refuse, fail or neglect to comply with any of the provisions of this chapter or any rule or regulation promulgated pursuant thereto. Unless otherwise specifically provided, a violation of this article or any such rule or regulation shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

Cross reference - Similar provisions as to violations of state traffic laws, Code of Virginia, Section 46.2-113; Town prohibited from imposing penalty for traffic violation which is greater than penalty imposed by state law for similar offense, Sections 46.2-1300.

Section 12-3. Disposition of fines and fees under chapter.

All fines imposed for a violation of the provisions of this chapter shall be paid into the Town treasury. Fees shall be disposed of according to law.

State law reference — Similar provisions, Code of Virginia, Sections 46.2-1308.

Section 12-4. Chapter applicable to drivers of vehicles regardless of ownership.

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles regardless of ownership, subject to such specific exceptions as are set forth in this chapter.

State law reference — Similar provisions, Code of Virginia Section 46.2-801.

Section 12-5. Applicability of chapter to persons riding bicycles or mopeds or riding or driving animals.

Every person riding a bicycle, moped or animal upon a highway and every person driving any animal thereon shall be subject to the provisions of this chapter applicable to the driver of a vehicle, unless the context of the provision clearly indicates otherwise.

State law reference — Similar provisions, Code of Virginia, Sections 46.2-800.

Section 12-6 Utility Service Vehicles.

Utility service vehicles owned by the Town of Buchanan, Virginia are hereby permitted to operate on public roads for public purposes within the Town of Buchanan, Virginia at a speed not to exceed 35 mph.

Article II. Parking

Section 12-7. Powers of Town with reference to parking.

(a) The Mayor or Town Council may, with reference to Town or State controlled property, classify vehicles with reference to parking and may designate the time, place and manner such vehicles may be allowed to park on Town or State controlled property and may make and enforce such additional rules and regulations as parking conditions may require. When any parking regulation is established pursuant to this section the Mayor or Town Council shall cause

to be erected appropriate signs or markers so that an ordinarily observant person, who may be affected by such regulation, will be aware of such regulation.

(b) When any regulation is made pursuant to this section and when appropriate signs or markers have been erected as required by this section, it shall be unlawful for any person to violate any such regulation.

State law reference — Authority for above section, Code of Virginia Section 46.2-1220.

Section 12-8. Parking prohibited in specified places.

(a) No person shall park a vehicle, except in compliance with the directions of an officer of the law, or traffic-control device, in any of the following places:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within twenty (20) feet from the intersection of curblines or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of highways.
- (7) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.
- (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
- (9) Within fifteen (15) feet in either direction of the entrance to a fire station, or within fifteen (15) feet of the entrance to a building housing rescue squad equipment or ambulances, provided such buildings are plainly designated.
- (10) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

- (11) On the roadway side of any vehicle parked at the edge of curb of a street.
- (12) Upon any bridge or other elevated structure upon a street or highway.
- (13) At any place where official signs prohibit parking or where the curbs are painted yellow.

State law reference — General authority of Town to regulate parking, Code of Virginia, Sections 46.2-1220, 46.2-1230.

(b) No person other than a representative of the Botetourt County Sheriff's Department shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.

Section 12-9. Parking on streets on which parking time limit is designated by signs.

When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle for longer than the time designated by such signs at any time between the hours stated in such signs ~~on any day except Sundays~~, within the district or upon any of the streets so signed.

Section 12-10. Parking to be in accordance with signs, signals, etc.

All vehicles, whether parked on the streets of the Town or in any of the parking lots within the Town which are operated by the Town, shall be parked in accordance with signs, signals, street marks and other devices for handling traffic which may be provided by the Town and the traffic engineer.

Section 12-11. Parking for more than five (5) days.

It shall be unlawful for any person to allow any motor vehicle, house trailer, camping trailer, trailer designated for the transportation of any freight or goods or livestock or any other trailer or apparatus of any kind whatsoever designated to be attached to or pulled by a motor vehicle, to remain in the same location on any street in the Town for a longer period than five (5) days.

Section 12-12. Limitation on parking of vehicle containing livestock.

It shall be unlawful for any person to park any vehicle containing livestock on any Street for more than one-half hour. A vehicle shall be considered parked for one-half hour if it is not moved at least one block within that period.

Section 12-14. Parking regulations to facilitate removal of snow.

(a) Whenever there shall be an accumulation of one or more inches of snow upon any street in the Town, the Sheriff or Mayor shall have the power to regulate parking upon the streets, or any property under Town ownership or control, in a manner which will facilitate the removal of snow from such streets and property, and to prohibit parking on one or both sides of such streets and to alternate parking on either side of such streets until the snow has been removed from the street or property where parking is so regulated.

(b) Whenever there shall be an accumulation of snow as hereinabove provided, the Sheriff or Mayor shall also have the power to move, by towing or other means, any parked vehicle obstructing or interfering with the process of snow removal. Such removal shall be carried out only after notice is given by posting at least two (2) signs in conspicuous places on or near the Street or public property to be cleared. Such signs shall state the time and date when snow removal will occur, by which time the vehicles shall be removed. Posting of signs shall occur no later than 3:00 p.m., which shall be at least six (6) hours before snow removal occurs.

Section 12-15. Changing oil in or greasing vehicle on street or sidewalk.

No person shall change oil in or grease a vehicle or perform major vehicle repair upon a street or sidewalk; nor shall the owner of a vehicle permit the changing of oil or greasing of it upon a street or sidewalk.

Section 12-16. Backing to curbs.

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom.

Section 12-17. Manner of using loading zones.

Where a loading and unloading zone has been set apart by the Town Council, the following regulations shall apply with respect to the use of such areas:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles other than regular delivery trucks using such loading zones shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

Section 12-18. Manner of using bus stops and taxicab stands.

Where a bus stop or taxicab stand has been set apart by the Town Council or Mayor the following regulations shall apply as to the use thereof: No persons shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere within any bus or taxicab waiting to enter or about to enter such zone.

Section 12-19. General relations governing private and public property.

No person shall stand or park a vehicle on any private or public lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area, contiguous or adjacent to a street, thoroughfare or alley, indicating that no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such lot or lot area. Further, whenever signs or markings have been erected on any lot or lot area indicating that no vehicles are permitted to stand or park thereon during certain hours or after business hours, it shall be unlawful for any person to stop, stand or park any vehicle in such lot or lot area during such prohibited hours.

Section 12-20. Penalty for parking violations; ticketing procedure; etc.

(a) When voluntarily paid in accord with the provisions of subsection (b) below, the penalty for parking violations shall be as follows: All parking violations: Five dollars (\$5.00).

(b) Each officer of the law charged with the duty of enforcing this article shall take the license registration number of any vehicle found parked in violation of any provision of this article and may take any other information displayed on the vehicle which may identify its owner. Such officer shall conspicuously affix to such vehicle a ticket stub, provided by the Town, instructing the owner of the vehicle that he must pay the amount either by mail or in person to the Town Treasurer within five (5) days. Upon failure to pay the \$5.00 fine, the Town Clerk shall send to such owner a law enforcement notice advising him of the violation and warning him that, in the event the penalty, plus the sum of five dollars (\$5.00), is not paid within ten (10) days, a summons will be issued pursuant to Section 46.2-941 of the Code of Virginia. Any such owner who fails to comply with the terms of such notice shall be subject to the penalty provided for in Section 12-21 of this chapter.

Section 12-21. Penalty for violation of this chapter.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and shall be punishable by a fine of not more than one-hundred dollars (\$100.00) at the discretion of the Court.

Section 12-22. Presumption in prosecution for parking violations.

In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such regulation, together with proof that the defendant was, at the time of such parking, the registered owner of the vehicle, as required by Chapter 6, (Section 46.2-600 et seq.) of Title 46.2 of the Code of Virginia, shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

Article III Abandoned Vehicles

Section 12-23. Abandoned motor vehicles, definitions.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

Abandoned motor vehicles: A motor vehicle, trailer or semi-trailer or part thereof that:

- (a) Is left unattended on public property for more than 48 hours; or
- (b) Has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or
- (c) Is left unattended on the shoulder of a primary highway.

Demolisher: Any person whose business is to convert a motor vehicle, trailer or semi—trailer into processed scrap or scrap metal or otherwise to wreck, or dismantle such vehicles.

Section 12-24. Abandoned vehicles taken into custody.

The Mayor or Sheriff or his designee may take into custody any abandoned motor vehicle. In so doing, the Mayor or Sheriff or his designee may employ Town Personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who may be independent contractors for the purposes of removing, preserving and storing abandoned motor vehicles.

Section 12-25. Notice to owner of vehicle taken into custody.

(a) When the Mayor or Sheriff or his designee takes into custody an abandoned motor vehicle he shall notify, within fifteen (15) days thereof by registered or certified mail, return receipt requested, the owner of record of the motor vehicle and all persons having security interests therein of record, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and serial number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any persons having security interest of their rights to reclaim the motor vehicle within 15 days after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle into custody, and state that the failure of the owner or persons having security interests to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all persons having any security interest of all right of title and interest in the vehicle, and consent to the sale of the abandoned motor vehicle at a public auction.

(b) If records of the Division of Motor Vehicles contain no address for the owner or no address of any person shown by such records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be notified pursuant to the provisions of paragraph (a) of this section. Such notice by publication may contain multiple listings of abandoned motor vehicles. Any such notice shall be within the time requirements prescribed for notice by mail and shall have the same contents required for a notice by mail.

(c) The consequences and the tact of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this Section.

Section 12-26. Sale of vehicle at public auction: disposition at proceeds.

If an abandoned motor vehicle has to been reclaimed as provided for in section 12-25, the Mayor or Sheriff or his designee, shall, notwithstanding the provisions of section 46.2-607 of the Code of Virginia, sell the abandoned motor vehicle at public auction. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to, upon application therefor pursuant to section 46.2—603 of the Code of Virginia, a certificate of title and registration card therefor. The sales receipt from such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and in such case, no further titling of the vehicle shall be necessary, From the proceeds of the sale of an abandoned motor vehicle, the Mayor or Sheriff shall reimburse the Town for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned vehicle in custody, and all notice and publications costs incurred pursuant to section 12-25, Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interest therein, as their interests may appear, for ninety (90) days, and then shall be deposited into the Town treasury.

Section 12-27. Vehicles abandoned in garages.

Any motor vehicle, trailer, semi-trailer or part thereof left for more than thirty (30) days in a garage operated for commercial purposes, after notice by registered or certified mail, return receipt requested, to the owner to pick up the vehicle, within fifteen (15) days of the notice, or for more than ten (10) days after the period when, pursuant to contract, the vehicle was to remain on the premises, shall be deemed an abandoned motor vehicle, and may be reported by the garage keeper to the Mayor or Sheriff or his designee. All abandoned motor vehicles left in garages may be taken into custody by the Mayor or Sheriff or his designee in accordance with section 12-24 and shall be subject to the notice and sale provisions contained in section 12-25 and 12-26; provided that if such vehicle is reclaimed in accordance with section 12-25, the person reclaiming such vehicle shall, in addition to the other charges required to be paid, pay the charges of the garage keeper, if any; provided further, that if such vehicle is sold pursuant to section 12-26, the garage keeper's charges, if any, shall be paid from, and to the extent of the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving and storing such vehicle which resulted from placing such vehicle into custody and all notice and publication costs incurred pursuant to section 12-25. Except as otherwise provided in this article, nothing herein shall be construed to limit or restrict any rights conferred upon any person under sections 43-32 through 43-36 of the Code of Virginia. For the purposes of this section, "garage keeper" means any operator of a parking place, motor vehicle storage facility, or establishment for the servicing, repair or maintenance of motor vehicle.

Section 12-28. Disposition of inoperable abandoned vehicles.

When in the opinion of the Mayor or Sheriff or their designee, any abandoned motor vehicle, trailer, semi-trailer or part thereof is determined to be inoperable and not feasibly restorable to operable condition, it may be disposed of to a demolisher, without the title and without compliance with the notification procedures set forth in this Chapter. The disposal may be made by the person on whose property or in whose possession such motor vehicle, trailer or semi-trailer is found or the Mayor or Sheriff or his designee. The demolisher, upon taking custody of such motor vehicle, trailer or semi-trailer shall notify the Division of Motor Vehicles, on forms and in the manner prescribed by the Commissioner of Motor Vehicles and no other report or notice shall be required in such instance.

Section 12-29. Surrender of title where vehicle acquired for demolition

(a) Any demolisher who purchases or otherwise acquires a motor vehicle for purposes of wrecking, dismantling or demolition shall not be required to obtain a certificate of title for such motor vehicle in his own name. After the motor vehicle has been demolished, processed or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender to the Division of Motor Vehicles for cancellation the certificate of title or sales receipt therefor. The Division of Motor Vehicles shall issue such forms, rules and regulations governing the surrender of sales receipts and certificates of title as are appropriate.

(b) A demolisher shall keep an accurate and complete record of all motor vehicles purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom each such motor vehicle was purchased or received and the date when such purchases or receipts occurred. These records shall be open for inspection by the Department of Motor Vehicles at any time during normal business hours.

CHAPTER 13

Noise.

- Section 13-1. Making of loud, unnecessary, etc., noises prohibited.
- Section 13-2. Loudspeakers in buildings or on premises.
- Section 13-3. Locomotive whistles or horns.
- Section 13-4. Noise emissions emanating from a motorcycle.
- Section 13-5. Penalty for violation of chapter.

Section 13-1. Making of loud, unnecessary, etc., noises prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or the comfort, repose, health, peace and safety of others within the Town limits of the Town of Buchanan.

Section 13-2. Loudspeakers in buildings or on premises.

It shall be unlawful for any person to maintain and operate, in any building or on any premises in the Town of Buchanan, any loudspeaker or other sound-amplifying device, as follows:

- (a) For advertising purposes.
- (b) Where the loudspeaker or device in question is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of persons in the streets or public places of the Town of Buchanan.
- (c) Where noise from the loudspeaker or device in question disturbs the peace and quietude or neighboring premises.
- (d) This provision shall not apply to activities conducted by the beneficent, charitable or religious organizations between the hours of 8:00 a.m. and 8:00 p.m.

Section 13-3. Locomotive whistles or horns.

The sounding or blowing of locomotive whistles within the corporate limits of the Town is hereby prohibited, except as may be necessary for the transmission of signals or in emergency to prevent accidents. Any violation of this section shall constitute a Class 4 misdemeanor.

Section 13-4. Noise emissions emanating from a motorcycle.

It shall be unlawful for any person to operate, at any time, within the limits of the Town of Buchanan, any motorcycle as defined in section 46.2-100 of the Code of Virginia, which is not equipped with a muffler conforming to sections 46.2-1049 and 46.2-1050 the Code of Virginia, for protection of noise emissions which may be hazardous to the health and well-being of the citizens of the Town of Buchanan.

Section 13-5. Penalty for violation of chapter.

Any person found guilty in violation of any section of this chapter shall be guilty of a Class 4 misdemeanor and shall be fined not more than one hundred dollars (\$100.00).

Section 13-6. Exceptions.

The provisions of this article shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.
- (2) Music, bells, chimes or other sounds which are emanating from a church, temple, synagogue or other place of worship.
- (3) Sound generated from school-sponsored athletic or recreational events.
- (4) Sound generated by activities which are an official or approved part of a Town-approved festival or activity.
- (5) Sound for which a variance has been granted in accordance with section 13-7_.

Section 13-7. Undue hardship variances.

- (a) Any person responsible for a noise source may apply to the Town Council for a variance or partial variance from the provisions of this article. The Town Council may grant such variance or partial variance if they find that:
 - (1) The noise does not endanger the public health, safety or welfare; or
 - (2) Compliance with the provisions of this article from which variance is sought would produce serious hardship without producing equal or greater benefit to the public.
- (b) In determining whether to grant such variance, the Town Council shall consider the time of day the noise will occur, duration of the noise, whether the noise is intermittent or continuous, its extensiveness, the technical and economic feasibility of bringing the noise into conformance with this article and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this article.
- (c) No variance or partial variance issued pursuant to this article shall be granted for a period to exceed one year, but any such variance or partial variance may be renewed for like periods if the Town Council shall find such renewal is justified after again applying the standards set forth in this article. No renewal shall be granted except upon application therefor.

CHAPTER 14

Offenses -- Miscellaneous.

- Section 14-1. Ambulance and fire—fighting equipment; calling or summoning without just cause.
- Section 14-2. Attempts; punishment.
- Section 14-3. Unlawful operation of coin box telephone, parking meter, vending machine, etc.; penalty.
- Section 14-4. Curfew for minors under eighteen years of age. S 14-7. Disorderly conduct in public places; penalty.
- Section 14-5. Profane swearing and drunkenness in public; penalty; transportation of public inebriates to detoxification center.
- Section 14-6. Indecent exposure; penalty.
- Section 14-7. Obstructing justice by threat, force, or failure to obey.
- Section 14-8. Refusing to aid officer in execution of his office.
- Section 14-9. Petit larceny; penalty.
- Section 14-10. Peeping or spying into structure occupied as dwelling.
- Section 14-11. Entering property of another for purposes of damaging it.
- Section 14-12. Breaking, injuring, defacing, destroying or preventing the operation of vehicle, boat or aircraft.
- Section 14-13. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions; penalty.
- Section 14-14. Removal of shopping cart from store premises; penalty.
- Section 14-15. Willfully discharging firearms in public places; penalty.
- Section 14-16. Discharging airgun, bow, etc.
- Section 14-17. Violations.
- Section 14-18. Continuing Violations.
- Section 14-19. Town Jail.
- Section 14-20. Classification of and penalties for violations
- Section 14-21. Arrest procedures.

Section 14-1. Ambulances and firefighting equipment -- calling or summoning without just cause.

No person shall, without just cause therefore, call or summon by telephone or otherwise, any ambulance or fire—fighting apparatus.

Section 14-2. Attempts; punishable.

Any person who attempts to commit an offense which is a violation of this code or other ordinance of the Town, upon conviction of the offense, shall be subject to the punishment as outlined in Code of Virginia 1950, SS 18.2—25 through 18,2-29.

Section 14-3. Unlawful operation of coin box telephone, parking meter, vending machine, etc., penalty.

Any person who shall operate, cause to be operated, or attempt to operate or cause to be operated any coin box telephone, parking meter, vending machine or other machine that operates on the coin-in-the-slot principle, whether of like kind or not, designed only to receive lawful coin of the United States of America, in connection with the use or enjoyment of telephone or telegraph service, parking privileges or any other service, or the sale of merchandise or other property, by means of a slug, or any false, counterfeit, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever, not authorized by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine; or who shall obtain or receive telephone or telegraph service, parking privileges, merchandise, or any other service or property from any such coin box telephone, parking meter, vending machine or other machine lawful coin of the United States of America to the amount required therefore by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine, shall be guilty of a Class 3 misdemeanor. (VA Code Section 18.2-179)

Section 14-4. Curfew for minors under eighteen years of age.

It shall be unlawful for any minor under the age of eighteen years to loiter, idle, wander, stroll or play in or upon the public streets, highways, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and ~~4:00~~ 6:00 *a.m.* of the following day, official Town of Buchanan time; provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor; or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor; or where the minor is in attendance at participating in sports, theatrical or other recreational activities not promoted or conducted for private gain but constantly and directly supervised by one or more adults; or where the minor is in attendance at places of amusement, if the entertainment thereat is censored by an authorized governmental agency, or where one or more police officers are in regular attendance throughout the period of entertainment or performance.

Each violation of this section shall constitute a separate offense.

Section 14-5. Disorderly conduct in public places; penalty.

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(a) In any street, highway, public building, or while in or on a public conveyance, or public place engaged in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title; or

(b) Willfully or being intoxicated, whether willfully or not, disrupts any meeting of the governing body of any political subdivision of this Town or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, however, that such conduct shall not be deemed to include utterance or display of any words or to include conduct otherwise made punishable under this title.

The person in charge of any such building, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

A person violating any provision of this section shall be guilty of a Class 4 misdemeanor.

Section 14-6. Profane swearing and drunkenness in public; penalty; transportation of public inebriates to detoxification center.

If any person profanely curse or swear or be drunk in public shall be deemed guilty of a Class 4 misdemeanor, In any area in which there is located a court approved detoxification center a law enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center. (Va. Code Section 18.2-388)

Section 14-7. Indecent exposure ; penalty.

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. (Va. Code § 18.2-387).

Section 14-8. Obstruction of justice by threat, force, or failure to obey.

(a) If any person, by threats, or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, witness, or any law-enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed to be guilty of a Class 1 misdemeanor.

(b) If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, witness, or any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate. (VA Code 18.2-460 A & B)

If any person, being required by a conservator of the peace on view of a breach of the peace or other offense to bring before him the offender, refuse or neglect to obey the conservator of the peace, he shall be guilty of a Class 2 misdemeanor; and if the conservator of the peace declare himself or be known to be such to the person so refusing or neglecting, ignorance of his office shall not be pleaded as an excuse. (VA Code Section 18.2-464)

Section 14-9. Refusal to aid officer in execution of his office; penalty.

If any person on being required by any police or other officer refuse or neglect to assist him; (1) in the execution of his office in criminal case, (2) in the preservation of peace, (3) in the apprehending or securing of any person for a breach of the peace, or (4) in any case of escape or rescue, he shall be guilty of a Class 2 misdemeanor.

Section 14-10. Petit larceny; penalty.

Any person who: (1) Commits larceny from the person of another of money or other thing of value of less than five dollars (\$5.00), or (2) Commits simple larceny not from the person of another of goods and chattels of the value of less than two hundred dollars (\$200.00), shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

Section 14-11. Peeping or spying into structure occupied as dwelling.

If any person shall enter upon the property of another, in the nighttime, and secretly or furtively peep through or attempt so to peep, into, through, or spy through, a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure be permanently situated or transportable and whether or not such occupancy be permanent or temporary, such person shall be guilty of a Class 1 misdemeanor. (VA Code Section 18.2-130)

Section 14-12. Entering property of another for purpose of damaging it.

It shall be unlawful for any person to enter the land, dwelling, outhouse or any other building of another for the purposes of damaging such property or any of the contents thereof or in any manner to interfere with the rights of the owner, user or the occupant thereof to use such property free from interference.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (Va. Code § 18.2-121)

Section 14-13. Breaking, injuring, defacing, destroying or preventing the operation of vehicle, aircraft or boat.

Any person who shall individually or in association with one or more others willfully, break, injure, tamper with or remove any part or parts of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying said vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a Class 1 misdemeanor. (VA Code Section 18.2-146)

Section 14-14. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions; penalty.

Any person who shall without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set in motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a Class 1 misdemeanor, except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty. (VA Code Section 18.2-147)

Section 14-15. Removal of shopping cart from store premises; penalty.

(a) The term “shopping cart” when used in this section means those push carts of the type or types which are commonly provided by grocery stores, drugstores, or other merchant stores or

markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.

(b) It shall be unlawful for any person to remove a shopping cart from the premises, of the owner of such shopping cart without the consent of the owner or of his agent, servant or employee given at the time of such removal. For the purpose of this section, the premises shall include all the parking area set aside by the owner, or on behalf of the owner, for the parking of cars for the convenience of the patrons of the owner.

(c) Any persons convicted of a violation under subsection (b) shall be guilty of a Class 3 misdemeanor. (VA Code Section 18.2-102.1)

Section 14-16. Willfully discharging firearms in public places; penalty.

If any person willfully discharge or cause to be discharged any firearm in any street or in any place of public business or place of public gathering in the Town of Buchanan, he shall be guilty of a Class 1 misdemeanor; provided that this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. (VA Code Section 18.2-280)

Section 14-17. Discharging air gun, bow, etc.

No person shall anywhere within the Town limits of Buchanan, discharge an arrow, dart, shot, stone, gravel, bullet or similar object from any air gun, bow, gravel shooter, slingshot, or other similar instrument, except in necessity to safeguard and to protect life or property.

Section 14-18. General.

Whenever in this Code or in any other ordinance of the Town of Buchanan any act is prohibited or is declared to be unlawful, or an offense or a misdemeanor, or the doing of any act is required, or the failure, neglect, or refusal to do any act is declared to be unlawful or an offense or misdemeanor, and no specific penalty is provided for the violations thereof, the violation of any such provision of the Code or any such other ordinance shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed twelve months, or by both said fine and imprisonment. (Code of Virginia, Section 15.1-901).

Section 14-19. Continuing Violations.

Except as otherwise provided, each day any violation of this Code or other ordinance, rule, or regulations of the Town of Buchanan continues shall constitute a separate offense.

Section 14-20. Town Jail.

The Regional Jail shall be used as the Town jail.

Section 14-21. Classification of and penalties for violations.

(a) Whenever in this Code or any other ordinance of the Town or any rule or regulation promulgated by any officer or agency of the Town, unless authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3, or 4 misdemeanor, such violation shall be punished as follows:

- (1) Class 1 misdemeanor: By a fine or not more than two thousand five hundred dollars (\$2,500) or by confinement in jail for not more than 12 months, or by both such fine and confinement.
- (2) Class 2 misdemeanor: By a fine of not more than one thousand dollars (\$1,000) or by confinement in jail for not more than six (6) months, or by both such fine and confinement.
- (3) Class 3 misdemeanor: By a fine of not more than one thousand dollars (\$1,000).
- (4) Class 4 misdemeanor: By a fine of not more than two hundred and fifty dollars (\$250.00).

(b) Notwithstanding any other provision of this Section or any other Section of this Code, no penalty shall be imposed for a violation of this Code or any other ordinance or any rule or regulation referred to in this Section, which is greater than the penalty provided by State law for a similar offense. (Code of Virginia, Sections 18.2-9, 18.2-11, 15.1-901).

Section 14-22. Arrest procedures.

(a) Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence, which offense is a violation of any Town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence except as otherwise provided in title 46.2 or Section 18.2-266 of the Code of Virginia, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provision of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of Section 19.2-82 of the Code of Virginia.

(b) Whenever any person is detained by or is in the custody of an arresting officer for a violation of any Town ordinance or of any provision of this Code punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor in which he cannot receive a jail sentence, except as otherwise provided in Title 46.2 of the Code of Virginia, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall refuse to discontinue the unlawful act, the officer may proceed according to the provisions of Section 19.2-82 of the Code of Virginia.

(c) Any person summoned pursuant to this section shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23, Title 19.2 (Section 19.2-387 et seq.) of the Code of Virginia. Reports to the central criminal records exchange concerning such person shall be made after a disposition of guilt is entered as provided for in Section 19.2-82 of the Code of Virginia.

(d) Any person refusing to give a written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction who shall proceed according to the provisions of Section 19.2-82 of the Code of Virginia.

(e) Any person who willfully violates his written promise to appear, given in accordance with this Section, shall be treated in accordance with the provisions of section 19.2-128 of the Code of Virginia, regardless of the disposition of and in addition to, the charge upon which he was originally arrested.

(f) The summons used by a law enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to section 46.2-388 of the Code of Virginia (Code of Virginia, Section 19.2-74).

CHAPTER 15

PLANNING

State law references: Planning, Code of Virginia, § 15.2-2200 et seq.; land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; zoning, Code of Virginia, § 15.2-2280 et seq.

- Section 15-1 Created
- Section 15-2. Composition; appointment and term of members.
- Section 15-3 Compensation of Members
- Section 15-4 Removal of Members
- Section 15-5. Filling of vacancies.
- Section 15-6. Functions, powers, duties and limitations.

Section 15-1. Created.

Pursuant to state law, a planning commission for the Town is hereby created.

State law references: Duty of Council to create planning commission, Code of Virginia, § 15.2-2210.

Section 15-2. Composition; appointment and term of members.

The planning commission shall be composed of five members, who shall be appointed by the Town Council, all of whom shall be residents of the Town and owners of real property qualified by knowledge and experience to make decisions on questions of community growth and development. One member of the commission may be a member of the Town Council, and one member may be a member of the administrative branch of government of the Town. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the Town Council, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission shall serve for staggered terms of four years each.

State law references: Composition of local planning commission and appointment and terms of members, Code of Virginia, § 15.2-2212.

Section 15-3. Compensation of members.

All members of the planning commission shall serve as such without compensation, but the Town Council may provide for reimbursement of actual expenses incurred by members of the commission.

Section 15-4. Removal of members.

Any member of the planning commission may be removed from office for malfeasance in office.

State law references: Similar provisions, Code of Virginia, § 15.2-2212.

Section 15-5. Filling of vacancies.

Vacancies on the planning commission, however caused, shall be filled by the Council for the unexpired term only.

State law references: Similar provisions, Code of Virginia, § 15.2-2212.

Section 15-6. Functions, powers, duties and limitations.

The planning commission shall have the functions, powers and duties, and be subject to the limitations, which are prescribed by state law.

CHAPTER 16
SECOND HAND GOODS
Reserved

CHAPTER 17
SOLICITATION
Reserved

CHAPTER 18
STORM SEWER SYSTEM

CHAPTER 19

Streets and Sidewalks

Article I. In General.

Section 19-1.	Acceptance of streets for care and maintenance.
Section 19-2.	Specifications for work on streets by Town forces.
Section 19-3.	Removal of snow and ice from sidewalks.
Section 19-4.	Removal, of snow and ice on sidewalks or streets.
Section 19-5.	Cellar doors or gratings in paved sidewalks.
Section 19-6.	Gates and doors upon sidewalks to open inward.
Section 19-7.	Open cellarways, areaways, etc., to be guarded.
Section 19-8.	Boxes, crates, etc., obstructing sidewalks.
Section 19-9.	Removal of ground, dirt, etc., from streets or alleys.
Section 19-10.	Loitering, etc.-- Generally.
Section 19-11.	Same-Loitering so as to obstruct sidewalks.
Section 19-12.	Placing waste in the street, alley or sidewalk.
Section 19-13.	Placing building materials upon street, alley or sidewalk.
Section 19-14.	Use of sidewalks during erection, etc., of building or wall.
Section 19-15.	Water and waste resulting from automobile washing business.
Section 19-16.	Skateboard and Bicycles on Sidewalks prohibited.

Article II. Excavations.

Section 19-19.	Permit required.
Section 19-18.	Deposits; acquiescence in provisions of article.
Section 19-19.	Duty to prosecute work without delay.
Section 19-20.	Replacing surface.
Section 19-21.	Guarding by lights and barriers; responsibility for excavation damages.
Section 19-22.	Article not applicable to work done by Town.
Section 19-23.	Trees, etc., projecting over streets or sidewalks.
Section 19-24.	Tampering with or damaging street trees.

Article I. In General

Section 19-1. Acceptance of streets for care and maintenance

No street shall be accepted for care and maintenance by the Town unless such new street has been graded and surfaced as provided in this section and dedicated by the recording of a plat drawn to scale showing such street, in the office of the clerk of the circuit court of the county, at the expense of the owner of the property, and no such acceptance shall take place until the plat of the street has been accepted and approved by the Council.

Before new streets can be accepted by the Town for care and maintenance, such streets must meet the requirements of the state department of highways.

Section 19-2. Specifications for work on streets by Town forces.

The Town Council shall have authority to prescribe regulations for work done on Town streets by the Town forces. Such regulations shall be kept on file in the office of the Town Clerk,

Section 19-3. Removal of snow and ice from sidewalks.

The tenant or occupant, and in case there shall be no tenant or occupant, the owner, or any person having the care of any building or lot of land abutting on any curbed or paved sidewalk shall, during the first eight hours of daylight following the time when snow or ice cease to fall or form, cause the same to be removed from such curbed or paved sidewalk.

Section 19-4. Removal of snow and ice to sidewalks or streets.

It shall be unlawful for any tenant or occupant, the owner, or any person having the care of any building or lot of land, to remove snow from such building or lot of land by removing the snow to any sidewalk or street.

Section 19-5. Cellar doors or gratings in paved sidewalks.

It shall be unlawful for any person to place or construct or cause to be constructed any cellar door or grating in or upon any paved sidewalk within the Town unless such door or grating shall be constructed on a level with the pavement and the owner thereof shall be required to keep the same in a safe condition to walk over.

Comment : Former Code Section 17-5.

Section 19-6. Gates and doors upon sidewalks to open inward.

Every gate or door built or constructed in any fence, garden or yard wall, upon or within two feet of the line of any public sidewalk on any street in the Town, shall be hung so as to open inward.

Section 19-7. Open cellarways, areaways. etc., to be guarded.

It shall be unlawful for any person to allow any cellarway, areaway or other place of like character opening on or in a public sidewalk in the Town to remain open unless properly guarded by bars or otherwise.

Section 19-8. Boxes, crates. etc. obstructing sidewalks.

It shall be unlawful for any person to place or permit to remain upon the streets, alleys or sidewalks adjoining their premises any boxes, crates or other things that will cause the streets, alleys or sidewalks to be obstructed.

Section 19-9. Removal of ground, dirt, etc., from Street or alley.

It shall be unlawful for any person to dig up or carry away from any street or alley, within the Town, any ground, dirt or stone without the written permission of the Town Council.

Section 19-10. Loitering, etc., -Generally.

No person or aggregation of persons shall loaf, loiter or lurk on the streets and sidewalks of the Town nor sit or lounge in front of any church, poolroom, bowling alley, barbershop or any other public place of business, or any private residence or in the doorways or entrance ways of such places.

Section 19-11. Same-Loitering so as to obstruct sidewalks.

It shall be unlawful for any person or group of persons to loiter on the sidewalks of the Town in such manner as in any way to obstruct or inconvenience pedestrians in the use of the same.

Section 19-12. Placing waste in the street, alley or sidewalk.

It shall be unlawful for any person to throw garbage, slop, refuse, offal or other obnoxious or unsightly matter or waste into or upon any street or public place of the Town, or to permit or

suffer the same to be done by any person in his employment, or to throw, place, drop, or cause to be put, any coal, ashes, dirt or filthy of any kind or any lumber, wood, stone or other obstruction into or upon any street or public place in the Town. This section shall not be construed to apply to building material placed on the Street, sidewalk or alley pursuant to Section 19-13.

Section 19-13. Placing building materials upon street, alley or sidewalk.

No person shall place building material upon the street, sidewalk or alley for use in connection with construction work, unless he shall have first obtained a permit from the Mayor to do so and unless he shall place such materials in the space assigned and, in the manner, directed by the Mayor.

Section 19-14. Use of sidewalks during erection, etc., of buildings or wall.

When any building or wall is being erected, repaired or demolished, the sidewalks in front thereof may, subject to section 19-13, be occupied and used by the contractor or builder in connection with such work for such period of time as may be reasonable; provided, that reasonable means are taken for the protection and safe passage of vehicles or pedestrians,

Section 19-15. Disposition of water and waste resulting from operation of business and washing automobiles.

It shall be unlawful for any person engaged in the business of washing automobiles to permit the water and waste therefrom to flow into any of the streets of the Town. Such person so engaged in business shall install on his property a drain connected with the Town sewers into which all water and waste from the operation shall flow.

Section 19-16. Skateboard and Bicycles on Sidewalks prohibited.

It shall be unlawful for any person to ride a skateboard or bicycle on the sidewalks of the Town of Buchanan.

Article II. Excavations.

Section 19-17. Permit required.

No person, unless specially authorized by the Council, shall take up or remove any portion of the surface of the sidewalk or street, or excavate in any public street of the Town without a written permit from the Town Council.

Section 19-18. Deposits; acquiescence in provisions of article.

Before a permit as required in section 19-17 is granted, the Town Council may require a deposit sufficient to pay for resurfacing the street to be disturbed, the amount of such deposit to be determined by the Town Council.

Every person who shall make application for such a permit shall be deemed to have assented thereby to all the provisions and terms of this article, including the right of the Town to collect the actual cost of replacing the pavement, sidewalk or street surface in the manner above directed.

Section 19-19. Duty to prosecute work without delay.

It shall be the duty of every person to whom a permit, as required in section 19-17, shall have been granted, to institute at once and prosecute without delay the work for which such permit was obtained, and promptly, on its completion, give written notice thereof to the Mayor.

Section 19-20. Replacing surface.

No pavement, sidewalk or street surface shall be replaced, after being taken up, pursuant to a permit as required in section 19-17, by any person except under the direction of the Town Council. If the applicant fails to resurface the street disturbed promptly and, in a manner, approved by the Town Council, the Council is authorized to cause such work to be done at the expense of the applicant.

Section 19-21. Guarding by lights and barriers; responsible for excavation damages.

Any person to whom a permit, as required in section 19-17, is granted shall place guards or barriers around the excavation in question and shall protect it by warning lights at night, and shall be responsible for damages to persons or property caused by such excavations until taken in charge by the Town.

Section 19-22. Article not applicable to work done by Town.

The provisions of this article shall not apply to work done by authorized Town forces.

Article III. Trees, Plants and Shrubs

Section 19-23. Trees, plants or shrubs projecting over street or sidewalk from abutting property.

It shall be unlawful for any person owning or occupying property abutting a street or sidewalk to allow any tree, plants or shrubs growing on such property to project over the street or sidewalk in such manner as to obstruct or interfere with the safe passage of vehicles or pedestrians.

Section 19-24. Tampering with or damaging street trees.

It shall be unlawful and a class 1 misdemeanor for any person to tamper with, damage, injure or destroy any of the trees along the streets of the Town planted and maintained by the Town.

CHAPTER 20

SUBDIVISIONS

Section 20-1. Purpose and intent.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the Town of Buchanan, as provided by the Code of Virginia, 1950, as amended. The enclosed standards and procedures are intended to guide and facilitate the orderly and beneficial growth of the Town and to promote public health, safety, and general welfare consistent with the Town's comprehensive plan.

Section 20-2. Definitions.

The following words and phrases when used in this ordinance shall have the meanings respectively ascribed to them in this section, except in those instances where the content clearly indicates a different meaning. Words and terms not defined here or elsewhere in this ordinance shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

Agent. The representative appointed by the Town Council to serve as the agent of the Council in approving the subdivision plats. See *Subdivision agent*.

Alley. A public way affording or intended to afford secondary means of vehicular access to abutting properties and situated along the side or rear of such properties.

Applicant. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, chattels, or activities of any kind.

Building line. The minimum distance that a building must be set back from the front lot line or street right-of-way line.

Commission. The planning commission of the Town of Buchanan, Virginia.

Comprehensive plan. Duly enacted Town of Buchanan comprehensive plan, adopted in accordance with Code of Virginia, § 15.2-2223.

Cul-de-sac. A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Developer. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See *Subdivider*.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Engineer. A civil engineer properly licensed and registered in the Commonwealth of Virginia.

Escrow. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

Health department and health official. The agency and person designated by the Town Council to administer the health regulations of the local government.

Highway engineer. The resident engineer of the area employed by the Virginia Department of Transportation.

Individual sewage disposal system. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

Jurisdiction. The area or territory subject to the legislative control of the governing body.

Land surveyor. A land surveyor properly licensed and registered in the Commonwealth of Virginia.

Local government engineer. The licensed engineer designated by the Town Council to furnish engineering assistance for the administration of these regulations.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.

Lot, corner. A lot abutting upon two or more streets at their intersection; on a corner lot, [a] front yard, as required in the district, shall be provided along all street frontages, and a rear yard, as required, shall be provided opposite the street frontage with the least dimension.

Lot, interior. A lot other than a corner lot or through lot, which has frontage on only one street.

Lot of record. A lot which is part of a subdivision recorded in the office of the clerk of the circuit court of Botetourt County, Virginia, or a lot or parcel which is described by metes and bounds and is similarly recorded.

Major subdivision. All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of the Town facilities or the creation of any public improvements.

Minor subdivision. Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road, or the extension of Town facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Town of Buchanan comprehensive plan, zoning ordinance, or these regulations.

Owner. The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having a legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of [the term] "same ownership." See Subdivider.

Plat. Includes the terms map, plan, plat, replat, or replot; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide."

Preliminary plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the planning commission for approval.

Property. Any tract, lot, parcel or several of the same, collected together for the purpose of subdividing.

Resubdivision. Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plat legally recorded prior to the adoption of any regulations controlling [a] subdivision.

Setback. The minimum distance that a building must be set back from the front lot line or street right-of-way line. See *Building line*.

Service drive. A public street generally paralleling and contiguous to a major street primarily designed to promote safety and an alternate access abutting property.

Street. The principal means of access to abutting properties.

Street or alley, public use of. The lawful unrestricted use of a specified area of right-of-way for ingress and egress to two or more abutting properties.

Street, major. A heavily traveled thoroughfare or highway that carries a large volume of through traffic. It serves the major centers of activity, constitute the highest traffic volume corridors, serves the longest trip desires and carry the major portion of through traffic.

Street, width. The total width of the strip of land dedicated or reserved for public travel including roadway, curbs, gutters, sidewalks and planting strips.

Subdivision. A division of any lot or parcel of land into two or more parts; provided, however, that the term "to subdivide" shall not include a bona fide division or partition of land for joint owners in a chancery proceeding ordered by a court of competent jurisdiction; provided, however, that the provisions of this chapter [ordinance] shall not apply to any tract or parcel of land being conveyed to an adjacent landowner by deed wherein it is clearly stated that such tract or parcel not to be used as a separate tract for building purposes but is to be used for building purposes only in connection with an adjacent tract.

Subdivision agent, Town. The representative appointed by the Town Council to serve as the agent of the Town Council in approving the subdivision plats.

Subdivider. An individual, corporation or registered partnership, owning any property to be subdivided; or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

Surveyor, land. A surveyor properly licensed and registered in the Commonwealth of Virginia.

Zoning ordinance. Refer to zoning ordinance of the Town of Buchanan, Virginia, duly enacted and adopted via accordance with the Code of Virginia, 1950, as amended.

Section 20-3. General requirements for subdivision of land.

(a) The owner or developer of a subdivision shall observe and comply with the following general requirements and principles of land subdivision ordinance in preparing the preliminary and final subdivision plats:

(1) The plat shall conform to the adopted zoning ordinance requirements and comprehensive plan or one or more parts, sections or divisions thereof, as amended, of the Town, as the case may be.

(2) All streets which are designated as part of the major highway system on such comprehensive plan or part, division or section thereof, as amended, shall be coordinated with adjoining links in said system and at the same or greater widths.

(3) Major and minor street widths shall conform to the widths adopted by the Virginia Department of Transportation (VDOT). No minor street shall have a width of less than 50 feet between property lines.

(4) Cul-de-sacs where permitted shall not exceed 600 feet in length, and shall not be less than 50 feet wide, except where topography, unusual and peculiar conditions make this impractical,

the planning commission may permit a greater length. All permanent dead-end streets shall terminate in a circular right-of-way with a minimum diameter of 80 feet.

(5) As far as practicable all proposed streets shall be continuous and made to connect with existing streets without off-set.

(6) Blocks, in general, shall not be longer than 1,000 feet or less than 300 feet between street intersections; provided, however, [that] in instances where topography or existing peculiar conditions require it, a longer or shorter block may be approved by the planning commission. A crosswalk shall be provided between cross streets in blocks 800 feet or more long.

(7) Except as specifically permitted by the Town's zoning ordinance, all lots controlled by these regulations shall front on a public street and shall not extend through to another street; provided, however, that where the topography or existing peculiar conditions make this regulation impractical the planning commission may waive the same. No lot shall embrace any portion of a street or alley.

(8) At street intersections, the property shall be rounded by an arc having a radius of not less than 15 feet. Property lines at major street intersections or at other locations where traffic hazards and congestion may be anticipated, shall be designed for a radius of not less than 20 feet, or greater if deemed necessary.

(9) Side lot lines in general shall be at right angles to street lines or radial to curving street lines except where the topography or existing peculiar conditions make this regulation impractical.

(10) Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

(11) Lot area and lot width requirements shall be as specified in the Town's zoning ordinance.

(12) No corner lots shall be resubdivided to face another street unless all established building lines are observed on both streets.

(13) Major streets shall, insofar as possible, conform to the contours to avoid grades in excess of seven percent, unless because of special conditions the agent permits otherwise. Minor streets and alleys shall avoid grades in excess of ten percent. No street shall have a minimum grade of less than 0.5 percent.

(14) Alleys with a minimum width of 20 feet may be required at the rear of all lots designated for business or industrial use. Alleys, when provided in the rear of residential lots, shall not be less than 20 feet in width. Intersecting alleys shall be provided with a 15-foot radius at each corner. Easements at least 15 feet wide, 7.5 feet on each side of the rear of side lot lines, shall be provided for utilities and drainage where necessary. Easements at least 15 feet wide may be required in, along or adjacent to natural watercourses as drains for sanitary sewers or water diversion purposes.

(15) When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be identified on any plans required by this ordinance.

(16) When the land for the proposed subdivision lies wholly or partly within an area subject to the joint control of more than one political subdivision, the plat shall be submitted to the local

commission or other designated agent of the political subdivision in which the tract of land is located.

(17) Monuments of an approved type shall be set by the owner or proprietor of the subdivision as required by the agent and as shown on the final plat.

(18) Reserved strips restricting access to streets, alleys, public ways and easements shall not be permitted.

(19) All land designated for future public street (right-of-way) purposes or public street (right-of-way) widening shall be dedicated for public use.

(20) Where practicable the centerlines of all intersecting streets shall meet in a common point and shall intersect one another as near to a right angle as it is practicable in each case.

(21) No existing local street names or subdivision names in Botetourt County and adjoining localities shall be duplicated.

(22) Whenever a proposed subdivision abuts a road which is included in the state system of primary highways, an access road extending for the full length of the subdivision along such highway and providing limited access thereto may be required by the subdivision agent at a distance suitable for the appropriate use of the land between such access road and highway.

(23) Streetlights shall be required in accordance to Town's policy. Installation of streetlights shall be required in accordance with design and specifications standards approved by the Town.

(b) For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, greenway trail, drainage or sewerage system, water line as part of a public system or other improvement dedicated for public use, and maintained by the Town and for the provision of other site-related improvements required by Town ordinances for vehicular ingress and egress, including traffic signalization and control, for public access street, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the Town that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the Town a certified check or cash escrow in the amount of the estimated costs construction or a personal, corporate or property bond, with surety satisfaction to the Town, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the Town a bank or savings institution's letter of credit on certain designated funds satisfactory to the Town as to the bank or savings institution, the amount and the form.

(c) Where a single lot or parcel of land is to be subdivided into only two parcels, any or all requirements of this ordinance may, in the discretion of the subdivision agent, be waived.

(d) Land that the planning commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission, upon recommendation of the Town's authorized engineer, to solve the problems created by the unsuitable land conditions.

Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.

(e) Variations in or exceptions to the general regulations of the subdivision ordinance may be permitted if in the opinion of the agent, in cases of unusual situations, or when strict adherence to the general regulations would result in substantial injustice or hardship.

Section 20-4. Plats; procedure for preparation and filing.

(a) Whenever a subdivision is proposed to be made and before recordation or any sale of said subdivision, as a whole or any part thereof, is made, the owner or developer of the proposed subdivision, or his duly authorized representative, shall file a plat of the proposed subdivision with the agent for approval. The plat and all procedure relating thereto shall in all respects be in full compliance with the provisions of these regulations and all applicable laws and ordinances affecting or regulating the subdivision of land, the use thereof and the erection of buildings or structures thereon.

(b) There shall be a reasonable fee charged for the review of subdivision plat. Such fee shall be established by resolution of the Town Council, a copy which shall be maintained in the agent's office.

(c) The owner or developer of a proposed subdivision shall cause a preliminary plat to be prepared, accompanied by street profiles, when required, and shall present not less than six prints or copies of each for tentative approval to the agent. However, if approval of a feature or features of the preliminary plat by the planning commission and/or a state agency is necessary, additional copies may be required. The subdivision agent shall forward the [preliminary plat] to the planning commission and/or state agency (ies) for review and action.

(1) Any state agency making such a review of a plat forwarded to it under this section shall complete its review within 45 days of receipt of such preliminary plat. Upon receipt of the approvals from all state agencies, the agent shall act upon a preliminary plat within 35 days.

(2) If a planning commission has the responsibility of review of preliminary plats and conduct a public hearing, it shall act on such plat within 45 days after receiving approval from all state agencies.

(3) If the agent or planning commission does not approve the preliminary plat, the agent shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or commission; provided, however, that the planning commission shall not be required to approve a preliminary subdivision plat in less than 60 days from the date of its original submission to the agent.

(4) All actions on preliminary subdivision plats shall be completed by the subdivision agent and/or planning commission and, if necessary, state agencies, within a total of 90 days of submission to the agent.

(d) The agent shall tentatively approve or disapprove the preliminary subdivision plat and street profiles or approve them with modifications, noting thereon any changes that will be required. One copy shall be returned to the owner or developer of the subdivision or his representative with the date of said approval or disapproval noted thereon.

(1) If the agent fails to approve or disapprove the preliminary plat within 90 days after it has been officially submitted for approval, the subdivider, after ten days' written notice to the agent,

may petition the Circuit Court of Botetourt County to enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

(2) If the agent disapproves a preliminary plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Circuit Court of Botetourt County to be heard and determined the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the agent.

(e) The agent, in studying the preliminary subdivision plat, shall take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to width, arrangement and location of streets, and alleys or utility easements, drainage, lot sizes and arrangements, and other facilities such as parks, playgrounds or school sites, public buildings, parking areas, boulevards and main highways. Adequate street connections shall be required by the agent to ensure free and safe access to adjoining, existing, proposed and possible subdivision lands.

(f) The owner or developer of the subdivision, following the tentative approval of the preliminary subdivision plat and street profiles with proposed grades, shall file with the agent within six months, subdivision plats as provided in section 6 of this ordinance. One copy of street profiles with grades or topographic map, if required, shall also be filed with the agent.

(g) The final subdivision plat shall be approved by the agent if found to be in conformity with the requirements of law and of these regulations.

(1) The agent shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefor.

(2) Such plat shall be filed for recordation in the clerk's office of the Botetourt County Circuit Court in which deeds conveying the land are recorded 60 days after final approval thereof, otherwise such approval shall be withdrawn and the plat marked void and returned to the owner and agent; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Town, or where the developer has furnished surety by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the Town, whichever is greater.

(3) If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the Town a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of facilities to be dedicated within said section for public use and maintained by the Town, the commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Section 20-5. Preliminary plats.

- (a) The subdivider shall present to the agent not less than six copies of the preliminary plat, plainly marked as such, preferably at a scale of one-inch equals 100 feet, showing the following:
- (1) Subdivision name.
 - (2) Name and address of the recorded owner of the land proposed to be subdivided and the owner or developer of the subdivision, and the surveyor or engineer.
 - (3) The location, width and names of all existing or platted streets, alleys, utility easements, or other public ways or other places for public use of land for future street widening within or adjacent to the subdivision, existing permanent buildings, railroad rights of way (rights-of-way), erosion and sediment control, drainage, and other facilities such as parks, playground, public and private sewage facilities, water filtration and distribution facilities, school sites, public buildings, parking areas, boulevards, and main highways.
 - (4) Location of proposed subdivision by an insert map at a scale of not less than two inches equal to one mile, showing relative location to adjoining properties. Names of owners of adjoining tracts.
 - (5) Profile of each street with proposed grades, when required.
 - (6) Location of all building lines and location and dimensions of all easements.
 - (7) Lot lines with approximate dimensions, acreage of subdivided area and existing buildings footprints.
 - (8) Proposed method and source of water supply, drainage provisions, sanitary sewer layout or other accepted sanitary plan. Plans [of] on-site sewage disposal systems/and or wells to be submitted to Botetourt County/Buchanan Health Department for review and approval.
 - (9) New or replacement sanitary sewer facilities, pumping stations and collector systems, including private package sewage treatment plants, shall be designed to minimize or eliminate infiltration of floodwater into the system and discharges from the system into the floodwater.
 - (10) An erosion and sediment control plan which shall indicate methods to be utilized in minimizing potential erosion and sediment, both during construction and upon completion of the subdivision, such plan and control methodology to be developed in accordance to Virginia Erosion and Sediment Control Handbook, latest edition, (E & S Handbook) and in accordance with the Botetourt County Erosion and Sediment Control Ordinances (Chapter 10 of the Botetourt County Code).
 - (11) Proposed use of the property to be subdivided.
 - (12) Topographic map on a suitable scale and contour intervals when required by the agent.
 - (13) Date, scale of plat, and north point of map. True meridian shall be used when practicable; otherwise the date of the magnetic meridian must be given.
- (b) No preliminary plat shall be approved unless the planning commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the planning commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy to include roads, sewerage and water service, schools, parks, police and emergency services.

(c) Unless a final plat is filed with the agent within six months after the approval of the preliminary plat, the preliminary plat shall thereupon become void and shall be so marked by the agent.

Section 20-6. Final plats.

(a) Every final subdivision plat shall be prepared by a certified civil engineer or land surveyor duly licensed by the Commonwealth of Virginia, who shall endorse upon each such plat a certificate signed by him setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument or instruments, in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat. All plats submitted for recordation shall meet the standards for plats as adopted under Code of Virginia, § 42.1-82 of the Virginia Public Records Act.

(b) The final subdivision plat shall be two blue or black line reproducible mylar prints. The final plat must also be accompanied by two blue or black line reproducible mylar prints identifying all required physical improvements to be installed. The size of the sheet shall be 20 inches by 30 inches, including a margin of one inch outside ruled border lines at [the] bottom, top and right sides and two inches for binding on the left 20-inch side of the sheet. The drawing shall be to a scale of not less than 20 feet to an inch and not more than 100 feet to one inch. The original mylar tracing and two paper prints shall be submitted to the agent. After approval, one copy of the reproducible mylar shall be returned to the owner or developer of the subdivision for recordation in the precise form as approved.

(c) In addition to the requirements for the preliminary plat the final plat shall show:

(1) Sufficient data to readily determine the location, bearing and length of every street line, lot line, block line and boundary line and to produce the same on the ground from permanent monuments. Linear dimensions shall be in English measurements and acceptable metric units. All dimensions, both linear and angular, shall be determined by an accurate control survey which must close and balance within a limit of one foot in 5,000 feet. A plus or minus figure shall not be permitted on any line. Elevation of existing and proposed ground surfaces at all street intersections and points of major grade change along centerlines of streets, together with proposed grade lines connecting therewith, shall likewise be shown. True elevations shall be used based on the United States Coast and Geodetic Survey datum. Benchmark elevations and descriptions thereof are available at the office of planning and zoning.

(2) All curves shall be circular arcs and described by giving the deflection angle, radius, tangent, length of arc and chord bearing and distance. This may be shown in a scheduled tabulation on the plat.

(3) In order to establish uniformity, a section or survey shall consist of a number of blocks; a block shall consist of a number of lots; and a lot shall be the smallest individual land use unit. All sections, blocks and lots shall be numbered in consecutive order from left to right, beginning at the top of the unit. In case there is a resubdivision of lots, the original identity shall be shown, and other identification, not in conflict with these regulations, may be designated for the new arrangement.

(4) Permanent reference monuments prescribed by the agent shall be placed as required by the agent. Such permanent monuments shall be stone or concrete at least 24 inches long and six inches square (or four inches in diameter) and shall be set to approved finished grade where

practicable. Other points, such as street intersections, alley intersections, tangent points and angle points, shall be marked with a solid iron rod or an iron pipe not less than one-half inch in diameter, at least two feet long, driven flush with the ground. Monuments and iron pins shall be indicated on all plats.

(5) All bearings are to be referred to the true meridian where geodetic control has been completed. Where the magnetic meridian is used the declination shall be stated.

(6) The names of all streets and the name of the subdivision, the north point, scale, date, restrictions and conditions, if any.

(7) In no case shall the agent approve a revision of a previously approved plat unless the date of the revision thereof be clearly stated thereon, the fact that it is a revised plat and the reason for the revision.

(8) A complete and correct description of the land subdivided.

(9) A statement to the effect that the subdivision, as appears on the plat, is with the free consent and in accordance with the desire of the owners or developers of the land subdivided and the trustees in any deed of trust, or other instrumentality imposing a lien upon such land, if any there be. The plat shall be signed by such owners, developers and trustees, if any, all of whom shall duly acknowledge the same before some officer authorized to take acknowledgment of deeds.

(10) A statement of certification by the Botetourt County/Buchanan Health Department to the effect that all lots shown on the subdivision plat have been reviewed by the personnel of the Botetourt County Health Department and have met the criteria as set forth in the Commonwealth of Virginia Sewage Handling and Disposal Regulations adopted pursuant to Code of Virginia, title 32.1, as amended to date, and each lot or parcel is eligible for a septic permit.

Section 20-7. Recordation.

(a) When a final subdivision plat has been approved, executed and acknowledged as provided in this ordinance, it shall be recorded in the office of the Botetourt County clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the name of the subdivision.

(b) The recordation of such plat shall operate to transfer, in fee simple, to the Town, in which the land lies such portion of the premises platted as is on such plat set apart for streets, alleys or other public use or for future street widening and to transfer to Town any easement indicated on such plat to create a public right of passage over the same. The recordation of such plat shall operate to transfer to the Town, or to such association or public authority as the Town may provide, such easements shown on the plat for the conveyance of stormwater, domestic water and sewage, including the installation and maintenance of any facilities utilized for such purposes, as the Town may require. Nothing herein contained shall affect any right of a subdivider of land heretofore validly reserved.

(c) No final plat of a subdivision shall be recorded unless and until it shall have been first submitted to and approved by the agent, and no clerk of a court shall file or record a plat of a subdivision until such plat has been approved by said agent.

(d) An approved final subdivision plat which has been recorded, hereinafter referred to as "recorded plat," shall be valid for a period of not less than five years from the date of the

approval thereof or for such longer period as the agent may, at time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.

(e) Upon application of the subdivider filed prior to expiration of a recorded plat, the agent may grant one or more extensions of such approval for additional periods as the agent may, at the time extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

(f) If the agent denies an extension requested as provided herein and the subdivider or developer and the subdivider contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the Botetourt County circuit court, provided that such appeal is filed with the circuit court within 60 days of the written denial by the agent.

(g) Application for minor modifications to recorded plats made during the periods of validity of such plats established in accordance with this ordinance shall not constitute a waiver of the provisions hereof nor shall the approval of such minor modifications extend the period of validity of such plats.

Section 20-8. Selling or transferring lots or parcels of land.

No lot or parcel of land shall be sold or transferred until the final subdivision plat. of which said lot or parcel is a part, shall have been approved and recorded as provided in this ordinance.

Section 20-9. Issuance of permits, grading and installation of improvements.

(a) The Town shall not issue any permit for the erection of any building or structure to be located in any subdivision, a plat whereof is required to be recorded pursuant to the provisions of this ordinance, until such plat shall have been admitted to record as provided for in this ordinance.

(b) No construction activity of any kind, including grading, installation of improvements, and building shall begin on any land subject to these regulations without prior approval of the preliminary plat by the agent. In cases where a grading plan is required, approval of the grading plan by [the] Botetourt County Engineering Department is prerequisite to approval of the preliminary plat. In all instances, approval of the erosion and sediment control plan shall be considered such a prerequisite to approval of the preliminary plat.

(c) Grading operations may begin following approval of the preliminary plat, provided that such grading shall not be commenced until the subdivider has executed an agreement with Botetourt County and the Town and in which he agrees to:

(1) Satisfactorily complete all grading within the time specified.

(2) Plant, in accordance with plans and specifications approved by the Town, all slopes in excess of two horizontal feet to one vertical foot, and maintains such planting for a period of not less than one year.

(3) Undertake all erosion and sediment control measures in accordance with plans approved by Botetourt County Engineering Department.

(4) Install all required street and utility improvements in accordance with plans approved by the Town.

(5) Indemnify and hold harmless the Town, Town officials, agents of the Town and Town employees from any suit, claims or actions for damages or any cost incurred by the Town as a consequence of failure on the part of the subdivider to comply with the terms of the agreement.

(d) All physical improvements required by the provisions of this ordinance for the subdivision as platted shall be installed therein and thereon at the expense of the subdivider prior to the recordation of the final plat; provided, however, that in lieu of the actual installation of the physical improvements, the subdivider shall have submitted and have approved an acceptable form of agreement and bond with corporate surety, or in lieu of said bond an acceptable letter of credit to be in an amount equal to the total cost of such improvements and guaranteeing that the required improvements will be installed within a designated length of time. The form of agreement, designated length of time, bond and surety, letter of credit, and choice of guarantee shall be prescribed by the Town Council, as it may require, according to the nature and extent of the improvements to be made.

Section 20- 10. Inspection prior approval of plat.

The agent, before finally approving any subdivision plat, shall personally inspect the proposed subdivision on the ground. Upon approving such final subdivision plat, the agent shall clearly endorse their [his] approval thereon.

Section 20-11. Vacation of plats.

(a) Any plat recordation or part thereof, having been recorded, may be vacated before sale or after sale of lot therein, in accordance with the provisions of the Code of Virginia §§ 15.2-2271 and 15.2-2272.

(b) The boundary lines of any lot parcel of land may be relocated or otherwise altered as part of an otherwise valid and properly recorded plat of subdivision or resubdivision approved by the agent and executed by the owner or owners of such land with their free will and consent. Such action of approval shall not involve the relocation or alteration of streets, alleys, easements for public passage or other public areas; and provided further, that no easements or utility right-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

Section 20-12. Street names and house numbering.

(a) Any street in a subdivision which is a prolongation, or approximately a prolongation, of an existing street shall be given the same name.

(b) Except as provided in the preceding paragraph, no street shall be designated by the same name as that therefore borne by any other street, irrespective of the use of any suffix.

(c) Where practicable, all streets in a subdivision running in a general direction, east and west, shall be designated as avenues and so named. All streets running in a general direction, north and south, shall be designated as streets and so named or numbered. All streets having winding courses shall be known as roads or boulevards. The names of the streets and avenues, as shown upon the plats of the official map and on file in the office of the planning and zoning, shall be the true names and designation of streets, avenues, roads and boulevards.

- (d) Where practicable, when a building or structure is erected on any land covered by these regulations, the number assigned shall conform to the existing house numbering system.
- (e) Each owner of a building, commercial property, industrial structure, [and] residential structures shall be responsible for affixing to such building its assigned building number. Building numbers shall be assigned by the authorized agent of the Town designated by Town Council.

Section 20-13. Improvements.

- (a) All plans and specifications shall be in conformity with requirements approved by the Town for various types of physical improvements.
- (b) The following improvements shall be required to be installed by the subdivider in subdivisions lying, in whole or in part, within the corporate limits of the Town, when such subdivision shall include or involve any public street, any extension of the Town water and sewer systems, any private water and sewer systems, any right-of-way connecting two public streets, or any easements for any of the foregoing; and the same shall be installed in strict accordance with the specifications provided herein as approved by the agent:
 - (1) All grading, draining, surfacing shall be done and all other items pertaining to the development of any street or road to include curbing, guttering and pavement shall be installed in strict accordance with the standards of the Virginia Department of Transportation.
 - (2) A drainage system shall be provided for means of culverts under roadways, lead and outlet drains necessary head walls, easement for drainage through adjacent properties and other structures that are necessary to provide adequate drainage of both natural [water] and stormwater for all streets and adjoining properties.
 - (3) The facilities for underground utilities such as sewer and water, including sewer and water laterals to each lot line when laid in streets, shall be in place prior to final surfacing. All facilities for utilities shall where possible be placed in alleys or in easements provided for that purpose at the rear of the lots in the subdivision, or located as approved by the Town.
 - (4) The subdivider shall install sewer mains and sewer laterals, extended to the property line of each lot, in accordance with size, depth and profile approved by the Town. In case where it is found impractical by the Town to install or connect with existing sewer systems, the installation of septic tanks may be permitted after percolation tests of the soil have been made to the satisfaction of the Botetourt County/Buchanan Health Department.
 - (5) The subdivider shall provide an adequate water system, which public water system shall be approved by the Town and private well[s] to be approved by Botetourt County/Buchanan Health Department.
 - (6) Street signs of an approved standard design shall be installed at all street intersections.
- (c) Where a drainage problem exists or will be created by the subdivision or development of land, the subdivider shall be required to provide necessary facilities to drain the area of the subdivision in question by a plan to be approved by the Town. This may be accomplished by the proper grading of the area or by the installation of a system of drainage pipes, structures, culverts, ditches, etc. In cases where it is impractical or unreasonable to eliminate the drainage problem as provided above, the agent shall require that certain areas of the subdivision, or other land available to the subdivider, be designed for seepage and absorption. No areas set aside for seepage and absorption, pursuant to this paragraph, shall, thereafter, be altered, in any manner, so

as to decrease drainage efficiency; and there shall be reserved unto the Town the continuing right to go upon such areas and restore or, if possible, increase the seepage efficiency. In instances where it is impractical to get rid of drainage water and larger drainage areas are not required, the subdivider shall install seepage pits or French drains.

(d) Drainage improvement shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The Town may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed developments.

(e) [The] Subdivider may be required to pay pro rata share of the cost providing reasonable and necessary off-site sewerage, water, and drainage facilities in accordance with the provisions of the Code of Virginia, § 15.2-2243, as amended, and the adopted policies of the Town.

(f) Reasonable provision shall be made for the voluntary funding of off-site road improvements in accordance with the provisions of the Code of Virginia § 15.2-2242, as amended.

Section 20-14. Inspection.

Periodic inspection during the installation of the physical improvements in a subdivision shall be made by a duly authorized Town official to ensure conformity with the approved plans and specifications. The subdivider shall notify the proper administrative officers when each phase of the installation is completed and ready for inspection.

Section 20-15. Agreement and bond of a subdivider.

When a developer submits the final plat, he shall either demonstrate that the improvements, shown on that plat have been completed to the satisfaction of the agency to be responsible for their ownership, operation and maintenance, or he shall provide to the Town a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond with surety satisfactory to the Town attorney in an amount sufficient for and conditional upon the construction of said facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned, or furnishes to the Town a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the Town's attorney as to the banks or savings and loan association, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the Town and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall, not exceed 25 percent of the estimated construction costs determined by the Town authorized agent.

Section 20-16. Certificates of approval.

- (a) Partial and/or final complete release of any bond, escrow, letter of credit, [or] other performance guarantee required by the Town Council may be issued by the agent within 30 days after receipt of written notice by the subdivider of completion of part or all of any facilities required to be constructed, unless the agent notified said subdivider in writing of nonreceipt of approval by applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.
- (b) If no such action is taken by the agent within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider. No final release shall be granted until after expiration of such 30-day period, and there is an additional request in writing sent by certified mail return receipt to the Town manager. The agent shall act within ten working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider.
- (c) Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 90 percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial release of such lower amounts as may be authorized by the agent based upon the percentage of facilities completed and approved by the agent or state agency having jurisdiction.
- (d) Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The agent shall not be required to execute more than three periodic releases in any 12-month period.
- (e) Upon satisfactory completion of installation of the required improvements in a subdivision, the administrative officers charged with the responsibility of each of the various types of improvements shall issue certificates or approval therefor to the subdivider, or his agent, and such certificates shall operate as evidence for the release of the required bond, escrow, letter of credit, or other performance guarantee as provided for in the preceding section, furnished for the guarantee of satisfactory installation of such improvements.
- (f) For the purpose of final release, the term "acceptance" is deemed to mean: when said public facility is accepted by and taken over for operation and maintenance by the Town department or other public authority which is responsible for maintaining and operating such facility upon acceptance.

Section 20-17. Violations.

In case of any violation or attempted violation of the provisions of this ordinance, the Town Council, in addition to other remedies, may institute any appropriate action or proceedings to prevent such violation or attempted violation, to restrain, correct or abate such violation or attempted violation, or to prevent any act which would constitute such a violation.

Section 20-18. Penalty.

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor punishable by a fine of not more than \$500.00 for each lot or parcel of land so subdivided or

transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

CHAPTER 21 (enacted 12/12)

TAXATION

Article I. In General.

Article II. Property Taxes

- A. Personal Property Taxes
- B. Real Property Taxes

Article III. Bank Franchise Taxes

Article IV. Food & Beverage Taxes

Article V. Utility Taxes

Article VI. Transient Occupancy Taxes

Article VII. BPOL Taxes

Article I. In General.

Section 21-1. Annual assessment: valuation of property.

The Council shall, annually, at the time provided in the Charter, fix the tax rates on all real and personal property subject to taxation within and by the Town and shall assess such taxes as may be required to provide for the needs and purposes of the Town, In determining the valuation of property in the Town, reference shall be had to the records of the commissioner of revenue of the county.

Section 21-2. Tax tickets; bills for taxes.

As soon as practicable after taxes are assessed as provided in section 21-1, the treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the state department of taxation and shall send by mail to each taxpayer a bill for such taxes. The treasurer in his or her discretion may designate the preparation of the annual tax tickets to Botetourt County.

Comment : Former Code Section 1802.

Section 21-3. When taxes due and payable; penalty.

Except as otherwise provided all taxes shall be due and payable as soon as the tax bills referred to in section 21-2 are sent. Any person failing to satisfy such tax bill on or before the fifth day of

December following the mailing thereof shall incur a penalty of ten percent of the total taxes due.

Comment : Former Code Section 18-3,

Section 21-4. Interest.

Interest at the rate of ten percent per annum shall be collected upon the principal and penalty from June thirtieth of the year next after taxes were assessed.

Comment : Former Code Section 18-4.

Section 21-5. License for circus and carnivals.

The following license fees shall be paid to the Town treasurer prior to the opening of any circus or carnival:

On each circus or menagerie	\$50.00
On each sideshow	5.00
On each drink or candy stand	2.00
On all other shows	25.00 for first night 3.00 for each succeeding night
On each carnival	500.00
On each ferris or revolving wheel	500.00
On each merry-go-round	500.00

Provided these fees shall not be levied upon circuses, carnivals, or similar entertainments for non-profit or charitable purposes.

Comment : Former Code Section 18-6.

Article II. Property Taxes

A. Personal Property Taxes

~~**Section 21-6. Motor vehicle tags: Payment of personal property tax.**~~

~~The following fees shall be charged for motor vehicles kept garaged within the Town limits for Town automobile tags or decals which shall be purchased and displayed on such vehicles each year on or before April 15 of each year:~~

Automobiles	\$20.00
Trucks	20.00
Motorcycles	11.00
Trailers	7.50
Vans	20.00

~~A fee of \$10.00 shall be charged for the transfer of a Town tag or decal. A fee of \$10.00 shall be charged for a duplicate of a tag or decal.~~

~~All Town and county personal property taxes shall be paid before a Town decal is issued.~~

~~————— Comment: Former Code Section 18-5.~~

Section 21-7. Personal Property Tax Relief Act

- (a) The purpose of Sections 21-7 through 21-10 is to provide for the implementation of the changes to PPTRA affected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia
- (b) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code §58.1-3523, as amended
- (c) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Town Code, this Ordinance shall control.

Section 21-8. Method of Computing and Reflecting Tax Relief.

- (a) For tax years commencing in 2006, the Town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the PPTRA and the reporting of such specific dollar relief on the tax bill.
- (b) The Council shall, as part of the annual budget adopted pursuant to Chapter 25 of Title 15.2 of the Code of Virginia set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the Town by the Commonwealth. Any amount of PPTRA relief not used within the Town’s fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.
- (c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

Section 21-9. Allocation of Relief among Taxpayers.

- (a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the Town's annual budget relating to PPTRA relief.
- (b) Relief shall be allocated in such a manner as to eliminate personal property taxation on each qualifying vehicle with an assessed value of \$1,000 or less.
- (c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a rate, annually fixed in the Town budget and applied to the \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the Town.

B. Real Property Taxes. There shall be a tax on real property which shall equal 19 cents per \$100 in addition to the tax charged by the county of Botetourt.

Section 21-X. Payment of administrative costs and attorney's fees.

- (a) In the event any tax assessed in this chapter is not paid on or before the date the same is due and the tax bill is declared delinquent, administrative costs and reasonable attorney's or collection agency's fees, actually contracted for shall be assessed at a rate not to exceed twenty (20) percent of the delinquent tax bill. Such administrative costs shall be in addition to all penalties and interest, and shall not exceed thirty dollars (\$30.00) for taxes collected subsequent to thirty (30) or more days after notice of delinquent taxes pursuant to Code of Virginia § 58.1-3919 but prior to the taking of any judgment, and thirty-five dollars (\$35.00) for taxes collected subsequent to judgment.
- (b) No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Virginia Code Section 58.1-3980, so long as the appeal is filed within ninety (90) days of the date of assessment, and for thirty (30) days after the date of the final determination of the appeal.

Article III. Bank Franchise Taxes.

Reserved.

Article IV. Tax on Prepared Food and Beverages¹

Section 21-40. Definitions.

The following words and phrases, when used in the article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

- (a) Caterer: A person who furnishes food on the premises of another, for compensation.
- (b) Food: Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages, purchased in or from a restaurant or from a caterer. Non-biodegradable by the sewage treatment processes employed or are biodegradable only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (c) Person: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.
- (d) Purchaser: Any person who purchases food in a restaurant or from a caterer.
- (e) Restaurant: Any place in or from which food is sold in the Town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, delicatessen, confectionery, bakery, eating house, eatery, drugstore, public or private club, resort, bar or lounge. The word “restaurant” shall not mean a grocery store, supermarket, or convenience store except for any space or section therein designated as a delicatessen or for the sale of prepared sandwiches and single meal platters.
- (f) Seller: Any person who sells food in or from a restaurant or as a caterer.
- (g) Snack Food: Unopened bottles or cans or carbonated soft drinks; chewing gum; candy; popcorn; peanuts and other nuts; unopened packages of cookies, doughnuts, crackers and potato chips; and other items of essentially the same nature and consumed for essentially the same purpose.
- (h) Treasurer: The Treasurer of the Town of Buchanan any of his duly authorized deputies, assistances, employees or agents.

Section 21-41. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered in the Town in or from a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not, or by a caterer. The rate of this tax shall be four (4) percent of the amount paid

¹ Article IV contains ordinances formerly codified as Chapter 18, Article II.

for such food. In the computation of this tax, any fraction of one-half cent or more shall be treated as one cent.

Section 21-42. Payment and collection of tax.

Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay the taxes collected to the Town as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the Town.

Section 21-43. Reports and remittances generally.

Every seller of food with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the Treasurer may prescribe and require, showing the amount of food charges collected and the tax required to be collected, and shall sign and deliver such report to the Town Treasure with the remittance of such tax. Such reports a remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

Section 21-44. Preservation of records.

It shall be the duty of any seller of food liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of three years records showing gross sales of all food and beverages; the amount charged the purchaser of each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The treasurer shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller, for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereof.

Section 21-45. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will receive the purchaser of the payment of all or any part of the tax.

Section 21-46. Tips and services charges.

Where a purchaser provides a tip for an employee of a seller, and the amount of the tip is wholly in the discretion of the purchaser, the tip is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account provided, in the latter case, the full amount of the tip is turned over to the employee by the seller.

An amount or percent, whether designated as a tip or a service charge, that is added to the price of the meal by the seller, and required to be paid by the purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this article.

Section 21-47. Duty of seller when going out of business

Whenever any seller required to collect and pay to the Town a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

Section 21-48. Discount.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed three (3) percent of the amount of the tax due and accounted for in the form of a deduction on his monthly return; provided, the amount due is not delinquent at the time of payment.

Section 21-49. Enforcement: duty of Treasurer.

The Treasurer shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the Treasurer to ascertain the name of every seller liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The Treasurer may have issued a summons for such person and may serve a copy of- such summons on such person in the manner provided by law. One return of the original summons shall be made to the general district court for the County of Botetourt. Police powers are hereby conferred upon the Treasurer and his duly authorized deputies, assistants, employees and agents while engaged in their duties pursuant to this article and they shall exercise all the powers and authorities of police officers in performing such duties.

Section 21-50. Procedure upon failure to collect, report, etc.

If any seller, whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the Treasure shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Treasure shall procure such facts and information as he is able to obtain upon which to base the assessment or any tax payable by any seller who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such seller the tax and penalties provided for by this article and shall notify such seller, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.

Section 21-51. Duty of Town treasurer.

The Treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the Town (See Section 20).

Section 21-52. Penalty for late remittance or false return.

(a) If any seller whose duty it is to do so shall, fail or refuse to file any report required by this article or to remit to the Town Treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the Town Treasurer a penalty in the amount of ten percent (10%) if the failure is not for more than thirty (30) days, with an additional ten percent (10%) of the total amount of tax owed along with all penalties for late payment previously levied for each additional thirty (30) days or fraction thereof during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate, with a minimum penalty of two dollars (\$2.00).

(b) In the case of a false or fraudulent return with intent to defraud the Town of any tax due under this article, a penalty of fifty percent (50%) of the tax shall be assessed against the person required to collect such tax,

Section 21-53. Violations of Article.

Any person violating, failing, refusing or neglecting to comply with any provision of this article shall be guilty of a Class 3 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes provided for in this article, An agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the Treasurer, Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

Section 21-54. Exemptions.

The following purchases of food shall not be subject to tax under this article:

(a) Food furnished by restaurants to employees are part of their compensation when no charge is made to the employee.

(b) Food sold by non-profit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(c) Food for use or consumption by the Commonwealth, any political subdivision of the Commonwealth or the United States.

- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facilities to patients or residents thereof.
- (e) Food furnished by a non-profit charitable organization to elderly, infirm, handicapped or needy persons in their home or at central locations.
- (f) Food sold by a non-profit educational, charitable or benevolent organization on occasional basis as a fundraising activity or food sold by a church or religious body on an occasional basis.
- (g) Food sold through vending machines.
- (h) Food sold by boardinghouses that do not accommodate transients.
- (i) Food sold by cafeteria operated by industrial plants for employees only.
- (j) Food sold by churches which serve meals for their members as a regular part of their religious observances,
- (k) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulations issued pursuant thereto.

2. This ordinance shall be in full force and effect on August 1, 1990.

Article V. Utility Taxes

Section 21-55. Consumers tax on utility services

Notwithstanding any other ordinance or other enactment heretofore adopted and currently in force in the Town of Buchanan, the following is hereby adopted and ordained to be effective as set forth herein below:

Section 21-56. Definitions.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in the Town.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-

generators (sometimes called co-generators) as defined in Virginia Code §56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means any individual, corporation, company or other entity.

Pipeline distribution company means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproduct thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

Section 21-57. Electric Utility Consumer tax

(a) In accordance with Virginia Code §58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) Residential consumers: Such tax shall be 20% of the minimum monthly fee charged by the service provider plus the rate of \$0.015495 on each kWh delivered monthly to residential consumers by a service provider not to exceed \$3.00 monthly.

(2) Non-residential consumers: such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

(i) Commercial consumers - such tax shall be 20% of the minimum monthly fee charged by the service provider plus the rate of \$0.022898 on each kWh delivered monthly to commercial consumers, not to exceed \$3.00 monthly.

(ii) Industrial consumers - such tax shall be 20% of the minimum monthly fee charged by the service provider plus the rate of \$0.022898 on each kWh delivered monthly to industrial consumers, not to exceed \$3.00 monthly

(3) The conversion of tax pursuant to this ordinance to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the Town shall be in effect.

(b) Exemptions: The following consumers of electricity are exempt from the tax imposed by this section B.

(1) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Title 58.1 of the Code of Virginia (§58.1-3650 et seq.)

(2) The United States of America, the Commonwealth and the political subdivisions thereof, including the Town.

Section 21-58. Billing, collection and remittance of tax.

The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to the Town on a monthly basis. Such taxes shall be paid by the service provider to the Town in accordance with Virginia Code §58.1-3814, paragraphs F and G, and Virginia Code §58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section the service provider shall notify the Town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the Town.

Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the Town.

Section 21-59. Computation of bills not on monthly basis.

Bills shall be considered as monthly bills for the purposes of this ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(i) the kWh will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly “maximum tax.”

Section 21-60. Natural gas utility consumer tax

(a) In accordance with Virginia Code §58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by “class of consumers” as such term is defined in Virginia Code §58.1-3814(J)., as follows:

(1) Residential consumers: Such tax on residential consumers of natural gas shall be \$0.000 plus at the rate of \$0.000- on CCF delivered monthly to residential consumers, not to exceed \$3.00 per month.

(2) Non-residential consumers: Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below:

(3) Commercial consumers - such tax shall be 20% of the minimum monthly fee charged by the service provided plus the rate of \$00000 on each CCF delivered monthly to commercial consumers, not to exceed \$3.00 monthly.

(4) Industrial consumers - such tax shall be \$0.00 plus the rate of \$0.0000 on each CCF delivered monthly to industrial consumers, not to exceed \$3.00 monthly.

(5) The conversion of tax pursuant to this ordinance to monthly CCF delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the Town shall be in effect.

(6) Exemptions. The following consumers of natural gas shall be exempt from the tax imposed by this section:

(i) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Title 58.1-3650 et seq.

(ii) The United States of America, the Commonwealth and the political subdivisions thereof, including the Town.

Section 21-61. Billing, collection and remittance of gas tax.

The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to the Town on a monthly basis. Such taxes shall be paid by the service provider to the Town in accordance with Virginia Code §58.1-3814, paragraphs H. and I., and Virginia Code §58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify the Town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the Town. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the Town.

Section 21-62. Computation of bills not on monthly basis.

Bills shall be considered as monthly bills for the purposes of this ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows: (i) the CCF will be divided by 2; (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) may not exceed twice the monthly ‘maximum tax’.

Section 21-63. Penalties for Consumer Violation

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this Chapter, and any officer, agent or employee of any service provider violating said provisions shall, upon conviction thereof, be punished by a fine of not more than \$1000.00, or by imprisonment in jail for not more than six (6) months, or by both such fine and imprisonment. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ordinance.

Comment: The proposed amendment clarifies that the Penalties apply to Natural gas as well as Electrical consumers.

Section 21-64. Electric Utilities License Tax Defined.

For the purposes of Section 21-64, the term “gross receipts” shall mean the gross receipts derived from business within the Town included in the total gross receipts utilized by the state corporation commission in making assessments under section 58.1-2633 of the Code of Virginia.

Section 21-65. Electric Utilities License Tax imposed.

There is hereby imposed and levied upon every upon every corporation providing heat, light and power within the Town a license tax equal to one-half of one percent of the annual gross receipts derived from such business in the Town.

Section 21-66. When gross receipts ascertained,

For the purpose of Section 21-64, gross receipts shall be ascertained as of the thirty-first day of December of each year, and the tax imposed by this division shall be based on receipts for the preceding twelve (12) months.

Section 21-67. When tax assessed.

The tax due imposed by Section 21-64 shall be assessed on the first day of January of each year, based on the gross receipts ascertained on the immediately preceding December thirty-first.

Section 21-68. When tax due and payable.

The tax assessed under Section 21-64 shall be due and payable to the treasurer of the Town on or before the First day of June in the year in which it is assessed.

Section 21-69. Penalty and interest on delinquencies.

Any person failing to pay any tax assessed pursuant to this division within the time prescribed shall incur a penalty thereon as provided by section 58.1-3918 of the Code of Virginia

Article VI Transient Occupancy Taxes²

Section 21-70. Levied; amount

There is hereby imposed and levied by the Town of Buchanan a transient occupancy tax on all hotels, motels, boarding houses, Inns, Bed & Breakfast Inns and travel campgrounds operating within the boundaries of the Town of Buchanan. Said tax shall be in amount of four per cent (4%) of the charge for the occupancy of any room or space occupied, said tax to be collected from the person occupying said rooms or spaces.

Section 21-71. Collection and payment.

All taxes collected pursuant to this article shall be collected by the operators of the aforementioned hotels, motels, boarding houses and travel campgrounds and shall be paid by those operators of the Town of Buchanan as herein prescribed. All taxes collected pursuant to this article shall be reported and remitted to the Town of Buchanan on or before the last day of the first calendar month thereafter. The required reports shall be in the form prescribed by the Town of Buchanan.

Section 21-72. Records.

Each and every operator of a hotel, motel, boarding house or travel campground shall keep complete records showing all occupancies for hire at their business, which records shall show the price charged for the occupancy of a room or space, the date thereof, the date of the payment hereof and the amount of tax imposed hereunder. All such records shall be kept open for inspection by the duly authorized agents of the Town of Buchanan at reasonable times and the duly authorized agents of the Town of Buchanan shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

Section 21-73. Commission; exceptions.

Where the tax here levied is collected by the operator of hotel, motel, boarding house or travel campground as the tax collecting medium or agency for the Town of Buchanan and remitted to the Town of Buchanan such operator shall be allowed as a commission for the collection and remission of taxes, three (3) per centum of the amount of the tax collected. Said commission shall be in the form of a deduction for the amounts remitted. No commission shall be allowed on delinquent payments. Payments shall be considered delinquent if payment shall not be paid to the property authority within five (5) days of the day said payments should have been made.

² This Article is unchanged but formerly was codified at Article II Section 1 of former Code Title 18.

Article VII. Business, Professional, and Occupational License Tax

Subsection A. Generally.

Section 21-74. Statement of policy.

It is the purpose and policy of the Town, in enacting this article imposing license taxes for the conduct of business in the Town, and for the granting of privileges as defined and set forth in this article, to equalize, as far as practicable, the burden of such license taxation among those liable thereto, by adopting, for general application, but subject to the regulations, personal privileges and exceptions specifically set forth in this article, a system of license taxes measured by the volume of business done by the business, trade, profession, occupation or calling upon which the tax is levied.

Section 21.75. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the commonwealth and notwithstanding any other current ordinances or resolutions enacted by the Council, whether or not compiled in this Code, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within the Town.

Section 21-76. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group means:

- (1) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if
 - a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and
 - b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subsection shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the treasurer for the Town and any of the treasurer's duly authorized deputies, assistants, employees or agents and for the purpose of this article shall have the same meaning as "assessor," "assessing official" or "treasurer."

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of Code of Virginia, § 58.1-3715.

Broker means an agent of a buyer or a seller who buys or sells stocks, bonds, commodities or services, usually on a commission basis.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- (2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Commodity means staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

Contractor means as prescribed in Code of Virginia, § 58.1-3714(D), whether such work is done or offered to be done by day labor, general contract or subcontract.

Dealer means any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be

deemed to be a definite place of business if there is not a definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities or other investments. Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables.

Chattel mortgage financing.

Consumer financing.

Credit card services.

Credit unions.

Factors.

Financing accounts receivable.

Industrial loan companies.

Installment financing.

Inventory financing.

Loan or mortgage brokers.

Loan or mortgage companies.

Safety deposit box companies.

Security and commodity brokers and services.

Stockbroker.

Working capital financing.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Code of Virginia, § 58.1-3700 et seq.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services means rendering for compensation any repair, personal, business or other service not specifically classified as "financial, real estate or professional service" under this article, or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia, title 58.1.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured

goods, wares and merchandise if it cannot determine the cost of manufacture, or chooses not to disclose the cost of manufacture.

Real estate services means providing with respect to the purchase, sale, lease, rental or appraisal of real property, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

Appraisers of real estate.

Escrow agents, real estate.

Fiduciaries, real estate.

Lessors of real property.

Real estate agents, brokers and managers.

Real estate selling agents.

Rental agents for real estate.

Retailer or retail merchant means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Security means as in the Securities Act, Code of Virginia, § 13.1-501 et seq., or in similar laws of the United States regulating the sale of securities.

Services means things purchased by a customer which do not have physical characteristics, or which are not goods, wares or merchandise.

Wholesaler or wholesale merchant means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users which because of the quantity, price or other terms indicate that they are consistent with sales at wholesale.

Section 21-77. Adoption of state law.

As to all questions in regard to the duty and conduct of the treasurer in collecting and enforcing the taxes imposed by this article, and in regard to matters of construction, and for the definitions of terms used in this article which are not defined, and the rules and regulations applicable to putting the same in operation, for the assessment, levy and collection of taxes for the current year, reference is hereby made to the laws of the state, and more particularly to Code of Virginia, § 58.1-3700 et seq., or to so much thereof as is applicable to this article and is not inconsistent with it or the general ordinances of the Town, and for the conduct and guidance of the treasurer of the Town and other parties affected by this article, and for fixing their powers, rights, duties and obligations, the provisions of such laws, so far as applicable, are hereby adopted, without being specifically quoted or set forth in this section.

Sec.21-78. Levying of license taxes.

(a) For each and every year beginning with January 1 of each year and ending December 31 following, until otherwise changed, there are hereby levied and there shall be collected the annual license taxes hereafter set forth in this article, except as otherwise specifically provided in this article, on persons conducting or engaging in any business, trade, profession, occupation or

calling in the Town as set forth in this article, which license taxes shall be for the support of the Town government, the payment of the Town debt and for other Town purposes.

(b) Each and all of the taxes imposed in this article are in all cases imposed upon the privilege of doing business or exercising a trade, profession, occupation or calling within the Town, including all phases of the business, profession, trade, occupation or calling conducted within the Town.

Section 21-79. License requirements.

(a) Every person engaging in the Town in any business, trade, profession, occupation or calling (collectively "a business") as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if in the case of professional services, such person maintains a definite office in the Town, or if such person does not maintain a definite office in the commonwealth but does maintain an abode in the Town, which abode for the purposes of this article shall be deemed a definite place of business; or in the case of any other business, such person has a definite place of business or maintains an office in the Town; or such person is engaged as a peddler or itinerant merchant, carnival or circus as specified in Code of Virginia, §§ 58.1-3717, 58.1-3718 or 58.1-3728, respectively, or is a contractor subject to Code of Virginia, § 58.1-3715, or is a public service corporation subject to Code of Virginia, § 58.1-3731. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

- (1) Each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the Town;
- (2) All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and
- (3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not licensable in the Town on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) No business license under this article shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals and transient occupancy taxes owed by the applicant to the Town have been paid.

Section 21-80. Issuance of license generally; not to be issued for conduct of activity at prohibited location; display of license.

(a) Upon payment of the prescribed tax and compliance with all applicable provisions of this article, and subject to all such provisions, the treasurer shall issue a license applied for under this article. Such license shall state that the person to whom it is issued is thereby licensed to carry on the business, trade, profession, occupation or calling therein named until December 31 following the date of such license or for the duration of the specific license granted.

(b) The treasurer shall not issue a license for conducting any business, trade, profession, occupation or calling at a location where the conduct of such business, trade, profession, occupation or calling at such location is prohibited by the zoning ordinance or any other ordinance of the Town.

(c) Every person required to obtain a license, tag, sticker or sign under the provisions of this article, shall display the license, tag, sticker or sign in a conspicuous place at his regular place of business or profession in order that any authorized representative of the Town may inspect the same at any and all reasonable times. All licensees who do not maintain a regular place of business shall either carry a license, tag, sticker or sign with them on their person or have the same affixed or attached to their truck, automobile or motor vehicle, and properly display the same when called upon to do so by any authorized representative of the Town. Motor vehicle license decals shall be displayed as provided for by State law.

Section 21-81. Extension of time for filing; penalties; interest; power of treasurer to collect tax.

(a) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for good cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(b) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of an additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud or reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or, if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

Acted responsibly means that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business, and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

Events beyond the taxpayer's control include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in

good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(c) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund, or the due date of the tax, or the date of the taxpayer's application for a refund, whichever is later.

(d) The treasurer shall have the same power to enforce the collection of license taxes that are now given or may hereafter be given to commissioners of the revenue and treasurers by the applicable provisions of the Code of Virginia, for the enforcement of state licenses.

Section 21-82. Gross receipts, general rule.

Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed or, if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled. However, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the state department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the

property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of personal services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

Section 21-83. Apportionment of gross receipts; agreements between localities.

(a) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in the other jurisdiction.

(b) *Agreements.* The assessor may enter into agreements with any other political subdivision of the state concerning the manner in which gross receipts shall be apportioned among the definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of the its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the state department of taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

Section 21-84. Corrections of assessments; appeals; rulings.

The enforcement of the provisions of this article including limitations with respect thereto, the correction of any assessment under this article and any appeal by the Town of a correction made by its assessing official or by any person assessed with taxes under this article and aggrieved by such assessment shall be pursuant to Code of Virginia, § 58.1-3900 et seq.; provided, however, that:

(1) Any person assessed with a licensing tax under this article as the result of an audit may within the period provided in Code of Virginia, § 58.1-3980 apply to the assessing official for a

correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the Town (e.g., the name and address to which an application should be directed).

(2) When application is made within 90 days of any assessment, collection activity shall be suspended until 30 days after the final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 1.8, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to depart quickly from the Town, to remove his property therefrom, to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax for the period in question.

(3) Any taxpayer may request from the assessor a written ruling regarding the application of the tax to a specific situation. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law, a court decision, or the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Section 21-85. Recordkeeping and audits of business records; statements and other proof as to gross receipts; revocation due to false statements.

(a) Every person who is assessable with a license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the Town. The assessor shall provide the taxpayer with the option of having the audit conducted in the taxpayer's local business office, if the records are maintained there. If the records are maintained outside the Town, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(b) Where the license tax imposed by this article is measured by gross receipts, gross value, sales or purchases, the treasurer may require of the applicant for a license a statement under oath,

as to the amount of his gross receipts, gross value, sales or purchases, and if the treasurer deems it advisable or necessary, he may demand of such person such other proof of the amount of his gross receipts, gross value, sales or purchases as may enable him to satisfactorily determine the same. The treasurer may decline to issue the license until such proof has been furnished.

(c) It shall be unlawful for any person to make a false or misleading statement or give false testimony for the purpose of obtaining a license under this article. Any license issued because of any such statement or testimony shall be revoked, and no part of the license tax collected shall be refunded.

Section 21-86. Exclusions and deductions from gross receipts.

(a) *General rule.* Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or a profession.

(b) *Exclusions enumerated.* The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the commonwealth or any county, city or Town for the state retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts, together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of the licensee's own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

Section 21-87. Rates of license taxes.

Except as may be specifically otherwise provided by ordinance or other law, the annual license tax imposed under this article shall be the rate set forth as follows for the class of enterprise listed:

- (1) For contractors and persons constructing for their own account for sale, \$25.00 or \$0.10 per \$100.00 of gross receipts, whichever is greater.
- (2) For financial services, \$25.00 or \$0.15 per \$100.00 of gross receipts, whichever is greater.
- (3) For real estate services, \$25.00 or \$0.15 per \$100.00 of gross receipts, whichever is greater.
- (4) For professional services, \$25.00 or \$0.15 per \$100.00 of gross receipts whichever is greater.
- (5) For repair, personal and business services and other businesses and occupations not specifically listed or exempted in this article or otherwise by law, \$25.00 or \$0.10 per \$100.00 of gross receipts, whichever is greater.
- (6) For carnivals, circuses, speedways, performances and other public exhibitions, \$500.00 for each performance held within the Town.
- (7) For fortunetellers, clairvoyants and practitioners of palmistry, \$250.00 per year.
- (8) For savings and loan associations and credit unions having their main office in the Town, \$50.00 per year.
- (9) For retailers, \$25.00 or \$0.10 per \$100.00 of gross receipts, whichever is greater.
- (10) For wholesalers, \$25.00 or \$0.05 per \$100.00 of purchases from the preceding year, whichever is greater.
- (11) For direct sellers as defined in Code of Virginia, § 58.1-3719.1 with total annual sales in excess of \$4,000.00, \$0.20 per \$100.00 of total annual retail sales or \$0.05 per \$100.00 of total annual wholesale sales, whichever is applicable.

Section 21-88. Exemptions from licensing requirements.

The following shall be exempt from the provisions of this article:

- (1) Newspaper carriers.
- (2) Babysitters and child care attendants who regularly care for four or less children, or who otherwise do not meet the state health department requirements for a day care permit.
- (3) Local nonprofit organizations and activities, which have as their purpose a charitable, recreational or social benefit to the community.
- (4) Other activities and services, not otherwise covered under this article, which do not have a business intent. Evidence of business intent shall include, but not be limited to, one or more of the following: Advertising in a telephone or other directory services or communications media; signs advertising the purpose of the business or defining its location; distribution of business cards; or other means of business solicitation.
- (5) Persons whose gross receipts in the preceding calendar year was less than \$3,000.00 due to any personal or business service, real estate service or professional service.

Section 21-89. When license tax due and payable; expiration of license.

- (a) The license tax shall be paid at the time the business license application is submitted on or before March 1 of each license year.
- (b) In all cases where the person shall begin the business, profession, trade, occupation or calling upon which a license tax is imposed after January 1 of the license year, such license tax shall be due and payable by March 1 of that year or within 30 days of the commencement of the business, profession, trade, occupation or calling, whichever comes later.
- (c) Unless otherwise specifically provided, a license issued under this article shall expire on December 31 next following its issuance.

Section 21-90. Estimates for determining tax; assessment of additional tax.

- (a) Whenever any person begins a business, trade, profession or occupation on or after January 1 of any license year, the license tax imposed by this article, if not set at a fixed amount, shall be measured by the applicant's estimate of the purchases, sales, gross receipts or gross value that will be received, made, established, or produced from the commencement of the business, trade, profession or occupation to the end of the license year. Such person shall, within a period of 30 days from the commencement of the succeeding license year, or when applying for his license for such succeeding year, furnish the treasurer with the true amount of the gross receipts, gross value, sales or purchases for that part of the preceding year during which such person operated and thereupon pay the treasurer any additional amount of license tax due. Until such payment is made, there shall not be issued to such person any license permitting such person to carry on any business, profession, trade, occupation or calling within the Town.
- (b) Whenever the treasurer shall ascertain that any person should be assessed with any additional license tax pursuant to the provisions of this article, it shall be the duty of the treasurer to assess such person with such additional license tax as may be due.

Section 21-91. Permit prerequisite to issuance for certain amusements.

- (a) Before a license is issued for any carnival, circus, speedway, performance or public exhibition, the person proposing to exhibit such carnival, circus, speedway, performance or public exhibition shall make application in writing to the Town Mayor, stating the nature of the carnival, circus, speedway, performance or public exhibition, and the location within the Town where the same will be exhibited, and secure from the Town Mayor a written permit therefor. If the Town Mayor considers it undesirable or dangerous to permit such a carnival, circus, speedway, performance or public exhibition to exhibit anywhere within the Town, he shall have full power to refuse to issue such permit.
- (b) This section shall also apply to any parade or other advertisement that uses the Town's streets.
- (c) The treasurer shall not issue a license until the permit required by this section is secured from the Town manager.

Section 21-92. Violations of article.

- (a) It shall be unlawful and a violation of this article for any person to operate a business, profession, trade, occupation or calling within the Town without first having obtained a license and before displaying such license as required by sections 21-80(c). Such violations shall constitute a class 1 misdemeanor.
- (b) Any person who shall willfully fail or refuse to file a business license tax return as required by section 1.7 shall be guilty of a violation of law. Upon conviction for such failure, the person shall be punished for a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less and for a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.
- (c) It shall be unlawful and a violation of this article for any person to make a false statement with intent to defraud in any application, return or affidavit required by this article. In addition to the penalty provided for in section 1.12, such violation shall constitute a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less, or a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.
- (d) Any person holding a license under this article to operate any business shall forfeit such license immediately upon conviction by any court of competent jurisdiction in the commonwealth of a violation of Code of Virginia, § 18.2-248, relating to an imitation controlled substance or Code of Virginia, § 18.2-246.3, relating to money laundering.

Subsection B, GENERAL LICENSE TAX SCHEDULE

Sec. 21-93. Alcoholic beverages.

- (a) The license tax for persons manufacturing, bottling, selling or dispensing beverages of more than 3.2 percent of alcohol by weight shall be as follows:
 - (1) For each distiller's license, \$1,000.00; provided, however, that no license shall be required where there is manufactured not more than 5,000 gallons of alcohol or spirits, either or both, during the license year.
 - (2) For each winery license, \$1,000.00.
 - (3) For each brewery license, \$1,000.00.
 - (4) For each bottler's license, \$500.00.
 - (5) For each wholesale beer license, \$50.00.
 - (6) For each wholesale wine distributor's license, \$50.00.
 - (7) For each retail on-premises wine and beer license, \$25.00.
 - (8) For each retail off-premises wine and beer license, \$25.00.
 - (9) For each banquet license, \$5.00.
- (b) The license tax for persons manufacturing, bottling, selling or dispensing any beverage containing one-half of one percent or more of alcohol by volume and not more than 3.2 percent of alcohol by weight, shall be as follows:
 - (1) For each manufacturer's license, \$150.00.
 - (2) For each bottler's license, \$100.00.
 - (3) For each wholesaler's license, \$100.00. Every distributing house used in whole or in part by any person for distributing beverages among his retail stores must secure, in addition to the

license provided for in this subsection, a wholesale merchant's license as provided for in section 21.95.

(4) For each retailer's license, \$10.00.

(c) For each person holding mixed beverages restaurant and caterer's licenses, the tax shall be:

(1) Two hundred dollars per annum for each restaurant with a seating capacity at tables for 50 to 100 persons;

(2) Three hundred dollars per annum, for each restaurant with a seating capacity at tables for more than 100, but not more than 150 persons;

(3) Five hundred dollars per annum for each restaurant with a seating capacity at tables for more than 150 persons;

(4) Five hundred dollars per annum for each caterer;

(5) Mixed beverages special events licenses, \$10.00 for each day of each event; and

(6) A private, nonprofit club operating a restaurant located on the premises of such club, \$350.00 per annum.

(d) The terms used in this section shall have the same meanings set forth in Code of Virginia, § 4.1-100, unless a different meaning is clearly intended.

(e) All persons licensed under any provision of this section shall comply in every respect with all applicable provisions of Code of Virginia, title 4.1, and no license shall be issued by the Town treasurer under the provision of this section, unless the applicant therefor presents to the treasurer the proper state license, as required by the provisions of Code of Virginia, title 4.1.

(f) If any person holds a Town license under this section without, at the same time, holding the proper state license provided for in Code of Virginia, title 4.1, such Town license shall, during the period such person does not hold the proper state license, confer upon such person no rights, powers or privileges under the provisions of this article.

(g) Any license tax imposed by this section shall be in addition to other license taxes and beverages mentioned in this section shall be considered goods, wares and merchandise for the purpose of such other license taxes.

(h) The license taxes required by this section shall not be prorated. No license issued under the provisions of this section shall be transferable from one person to another, but may be amended to show a change in the place of business.

(i) Any police officer shall, at all times during business hours, be allowed free access to every place where beverages are manufactured, bottled, distilled, brewed, stored, distributed, offered for sale or sold pursuant to a license under this section, for the purpose of examining and inspecting such premises.

Section 21-94. Carnivals, circuses, animal shows, theatrical performances or other such amusements.

(a) On every carnival or similar organization there shall be a license tax of \$500.00 for each day that an exhibition is given within the Town. As used in this section, the word "carnival" is meant to include any lawful business, performance or amusement to be given in a tent, building, structure or enclosed grounds occupied by such carnival, without any exceptions.

(b) On any dog, pony, minstrel, trained animal or wild west, circus, menagerie or like show, there shall be a license tax as follows for every day or part of a day: On such shows requiring transportation by one to ten cars, \$25.00; 11 to 20 cars, \$50.00; 21 to 30 cars, \$100.00; 31 to 40

cars, \$150.00; 41 to 60 cars, \$200.00; 61 to 70 cars, \$225.00; and over 70 cars, \$250.00. For each side show, there shall be a license tax of \$3.00 per day. As used in this section, the word "cars" includes all cars of every description (passenger, baggage, animal, dining or freight) used in the transportation of such shows and includes motor vehicles used for such purposes, whether used in conjunction with railroad cars or not.

(c) On every sleight-of-hand performance, wire or rope dancing or like public exhibition, there shall be a license tax of \$25.00 per day.

(d) Any performance, exhibition, circus, carnival, minstrel, menagerie, show or like undertaking that uses the Town's streets for parades or other advertisements, even if exhibiting outside of but within one mile of the Town, shall pay the appropriate license tax, as if the performance, exhibition, circus, carnival, minstrel, menagerie or show were exhibited within the Town. If a street parade is advertised in connection with such performance, exhibition, circus, carnival, minstrel, menagerie, show or like undertaking and is not given, the same license tax shall be paid as if such street parade were actually given.

Section 21-95. Coin machine operators and vending machines.

(a) Any person renting, leasing or otherwise furnishing or providing three to nine coin-in-slot machines shall obtain a coin machine operator's license for \$190.00; for ten or more machines, such license will be \$200.00, plus a gross receipts tax on receipts actually received by the operator from coin machines operated within the Town. However, this section shall not be applicable to operators of weighing machines, automatic baggage, parcel checking machines or receptacles, nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise, or postage stamps or provide service only, nor to operators of viewing machines or photomat machines, or machines affording rides to children or for the delivery of newspapers.

(b) Vendors dispensing merchandise through vending machines shall obtain a retail merchant's license based on gross receipts received.

Section 21-96. Distributing houses.

On every distributing house or place in Town, other than the house or place of manufacture, operated by any person engaged in the business of a merchant for the purpose of distributing goods, wares and merchandise among his retail stores, a separate license shall be required and the goods, wares and merchandise distributed through such distributing house or place shall be regarded as purchases for the purpose of measuring the license tax. The tax shall be the same as the license tax imposed by section 21-86(10) on wholesalers.

Section 21-97. Exhibition halls.

On every room or suite of rooms kept or rented for public exhibitions there shall be a license tax as provided in section 21-86(5).

Section 21-98. Gasoline, fuel oil, kerosene and other burning fluids dealers.

- (a) Every person who shall sell or solicit for the sale or receive or take orders for the sale and delivery of gasoline, kerosene, fuel oil or other burning fluids within the Town shall pay a license tax of \$0.20 per \$100.00 of gross receipts in excess of \$12,000.00 per year.
- (b) This section applies to any merchant who keeps and maintains a regular place of business in the Town for the purpose of sale, storage and delivery of gasoline, kerosene, fuel oil or other burning fluids, consisting of tanks and other necessary equipment for the storage, sale and delivery of gasoline, kerosene, fuel oil or other burning fluids.

Section 21-99. Itinerant vendors generally; tax rate.

- (a) *Itinerant vendor defined.* An itinerant vendor means any person who engages in, does or transacts any temporary or transient business in the Town, and who for the purpose of carrying on such business occupies any location for a period of less than one year.
- (b) *Mobile Restaurants.* Mobile restaurants, as defined in Chapter 24, Article I, Section 108, paragraph C of the Zoning Code, shall pay a license tax equivalent to the business license for retailers, as established in Section 21-86 of this chapter. Mobile restaurants shall be subject to the following requirements:
 - (1) Mobile Restaurants must obtain from the town, at the time the license tax is paid, a business license permit which identifies all properties on which they are to operate, along with written permission of the property owner to do so.
 - (2) Mobile restaurants must obtain a valid permit to operate issued by the Virginia Department of Health.
 - (3) Mobile restaurants must collect and remit to the Town Treasurer, all taxes on prepared food and beverages as established in Article IV of this Chapter.
 - (4) No items shall be sold other than food and beverages.
 - (5) No music shall be played that is audible outside of the vehicle.
 - (6) Mobile restaurant vehicles shall not block i) the main entry drive aisles or affect pedestrian or vehicular circulation overall, ii) other access to loading areas, or iii) emergency access and fire lanes. They must also be positioned at least fifteen (15) feet from fire hydrants, any fire department connection (FDC), driveway entrances, alleys and handicapped parking spaces.
 - (7) A mobile restaurant may operate between 7:00 am and 9:00 pm only. The vehicle and all accessory structures shall be removed each day. All materials associated with the business shall be removed from the location by 9:30 pm each day.
 - (8) No outdoor seating shall be permitted.
 - (9) No signs may be displayed except those permanently affixed to the vehicle, cart or trailer. No signs intended to move with air/wind shall be allowed (such as streamers, sails, or wings or feather flags).
 - (10) Trash receptacles shall be provided by and at the mobile restaurant and all trash, refuse, or recyclables generated by the use shall be properly disposed of in them. Such trash must be removed with the mobile unit and may not be placed in any public receptacle or can on a street or in a public dumpster.

- (11) No liquid wastes shall be discharged from the mobile restaurant.
- (12) No mobile restaurant shall locate within fifty (50) feet of the entrance to a business that sells food for consumption (determined by measuring from the edge of the unit to the main public entrance of the restaurant) unless permission of the restaurant owner is provided in writing. This standard shall not apply when an established, active restaurant is closed or outside its normal operating hours.
- (13) No mobile restaurant shall locate within fifty (50) feet of a single family or multi-family residential structure (determined by measuring from the edge of the unit to the edge of the structure).
- (14) A mobile restaurant may operate at any farmer's market held on public or private property, if the vendor is legally parked at the farmer's market and has received written permission from the market manager and displays such written permission upon request.
- (15) The operation of the mobile restaurant or use of a generator should not be loud enough to be plainly audible at a distance of one hundred (100) feet away. Excessive complaints about vehicle or generator noise will be grounds for the town to require that the vendor change location on the site, move to another property, or the permit may be revoked at that location.
- (16) The requirements of this section shall not apply to mobile restaurant vendors at catered events (events where the food is not sold through individual sales but provided to a group pursuant to a catering contract with a single payer).
- (17) A mobile restaurant permit may be revoked by the Town Manager, or his/her authorized representative, at any time, due to failure of the or operator of the mobile restaurant to observe all requirements for the operation of the unit. Notice of revocation shall be made in writing to the address of record for the permit holder. Any person aggrieved by such notice may appeal the revocation to the Town Council.

(c) *All Other Itinerant Vendors.* All other itinerant vendors shall pay a license tax of \$250.00 per month or fraction thereof, but in no event shall the tax exceed cumulatively \$500 per year.

(d) *Exemptions.* Any person licensed to operate in the Buchanan Farmer's Market shall be exempt from the provisions of this section; provided, however, that any activities outside the Buchanan Farmer's Market within the Town shall be subject to licensure under the provisions of this section or other sections of this article.

(e) *License fee.* An itinerant vendor wishing to conduct business at a festival, parade or other special event in the Town shall purchase a license for \$25.00 per day.

(f) *Application of section provisions.* This section shall not apply to any person who holds more than two garage or yard sales within any 12-month period, provided that such sale shall be held upon residential property and shall offer for sale only used household or personal goods owned by the seller or his immediate family.

Section 21-100. Peddlers generally; tax rate.

(a) *Peddler defined.* A peddler is any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same in the Town.

(b) *Exemptions; license display.* This section shall not apply to a peddler at wholesale or those who sell or offer for sale in person, or by their employees, ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. This

section shall not apply to those who sell to dealers or retailers only, a licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants, a distributor or vendor of motor fuels and petroleum products, a farmer or farmers' cooperative association, and a manufacturer who is subject to state tax on intangible personal property who peddles at wholesale only the goods, wares or merchandise manufactured by him at a plant, whose intangible personal property is taxed by the commonwealth. License certificates must be prominently displayed by peddlers.

(c) *Tax rates enumerated.* License tax rates shall be as follows:

(1) Peddlers of general merchandise and goods not specifically exempted: \$250.00 per month or fraction thereof, per person or vehicle.

(2) Peddlers who purchase for resale family supplies of a perishable nature or which are used for heating purposes (produce, fruits, seafood, perishable food, ice cream, meat, sandwiches, beverages, vegetables, flowers, plants, ice, wood, coal, etc.): \$50.00 per month or fraction thereof, per person or vehicle.

(3) In no event shall the tax rate specified in subsections (c)(1) and (c)(2) of this section exceed cumulative, \$500.00 per year.

(d) *Direct sales exempted; exception.* Notwithstanding any other provision of this section, no license tax shall be imposed on a direct seller, unless the total sales of such seller exceeds \$4,000.00, per year. The rate of tax on a direct seller who resides in the Town and whose total sales exceed \$4,000.00, per year, shall be \$0.20 per \$100.00 of retail sales.

(e) *Direct seller defined.* A direct seller means any person who:

(1) Engages in the trade or business of soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business;

(2) Receives remuneration for such activities, with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than the number of hours worked; and

(3) Performs such activities pursuant to a written contract between such person and the person for whom the activities are performed and such contract provides that such person will not be treated as an employee with respect to such activities for federal tax purposes.

Section 21-101. Restaurants.

Any person who shall cook, prepare or otherwise furnish, for compensation, food or refreshments of any kind, for casual visitors at his house or place of business, for consumption therein, and who does not furnish lodging, and who is not the keeper of a hotel or lodginghouse, shall be classified as a retail merchant for license tax purposes and shall be licensed as such.

Section 21-102. Telephone companies.

On every person engaged in the business of transmitting telephone messages between points within the Town and between the Town and other points within the state, there shall be a license tax of one-half of one percent of the gross receipts accruing from sales to the ultimate consumer in the Town. This section shall not be construed to impose a license tax on the business of transmitting telephone or telegraph messages for the United States government. Charges for long distance telephone calls are not included in gross receipts for purposes of license taxation.

Section 21-103. Water, gas and electric companies.

On every person selling water, gas or electricity for light, heat or power in the Town, there shall be a license tax equal to one-half of one percent of the gross receipts accruing from sales to the ultimate consumer in the Town; provided, however, that there shall be deducted any sums paid by such person to the Town as a merchant's license tax.

CHAPTER 22 (enacted 11/12)

Waters, Sewers, and Sewage Disposal.

Article I. In General

- Section 22-1. Violation of Chapter.
- Section 22-2. General requirement for approved method of sewage disposal
- Section 22-3. Sanitary facilities for circuses, shows, exhibitions, etc.
- Section 22-4. Permit for installation or repair of septic tank system.
- Section 22-5. Materials for, and inspection and approval of, septic tank system.
- Section 22-6. Plans and specifications for sanitary closets and privies.
- Section 22-7. Maintenance of sanitary closets and privies.
- Section 22-8. Unlawful damage or connection to, or removal of, water, sewer or drainage facilities.
- Sections 22-9.-22.26 Reserved

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- Section 22-27. Applicability of article,
- Section 22-28. Right of entry to determine compliance with article.
- Section 22-29. Notice and correction of violations of article.
- Section 22-30. Limitation on powers of Town's employees or agents.
- Section 22-31. Application for service - generally.
- Section 22-32. Same - for industrial users.
- Section 22-33. Service contract.
- Section 22-34. Discontinuance of service generally.
- Section 22-35. Construction of cesspools or septic tanks near Town's facilities.
- Sections 22-36.-22-45. Reserved

Division 2. Water Generally

- Section 22-46. Designation of public systems.
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- Section 22-48. Same - for recreation camps, construction camps, etc.
- Section 22-49. Connection for alteration permit.
- Section 22-50. Connection equipment and installation generally.
- Section 22-51. Persons authorized to make connections, alterations, etc.
- Section 22-52. Proper equipment prerequisite to tapping of main.
- Section 22-53. Inspection and approval of connections; guarding of excavations.
- Section 22-54. Power of authority to limit use or decrease or cut off supply.
- Section 22-55. Notice of user's desire that service be discontinued.
- Section 22-56. User turning water on or off at meter.
- Section 22-57. Damaging, obstructing, etc., Town's facilities.
- Section 22-58.-22-70. Reserved

Division 3. Cross-Connection Control and Backflow Prevention

- Section 22-71. Definitions
- Section 22-72. Contamination control generally.
- Section 22-73. Cross-connections generally.
- Section 22-74. Interconnection between public supplies.
- Section 22-75. General requirements for protection devices.
- Section 22-76. Specific connections requiring protection.
- Section 22-77. Protection of outlets generally.
- Section 22-78. Protection where outlet terminates below rim of tank or vat.
- Section 22-79. Low pressure cut off required for certain booster pumps.
- Section 22-80. Airgap specifications.
- Section 22-81. Certification of protective devices.
- Section 22-82. Installation and location of protective devices generally.
- Section 22-83. Use of double check—double gate valve assemblies as protective devices.
- Section 22-84. Maintenance of protective devices.

Article III. SEWERS

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- Section 22-85. Purpose
- Section 22-86. Scope
- Section 22-87. Administration
- Section 22-88. Inspections; information requirements
- Section 22-89. Amendments of the ordinance; review of ordinance.

Division 2. Definitions

- Section 22-90. Specific Definitions

Division 3. Connections and Discharges

- Section 22-91. Accidental Discharges
- Section 22-92.-22-95. Reserved
- Section 22-96. Mandatory connections.
- Section 22-97. Permit for connection.
- Section 22-98. Use of available public water prerequisite connection.
- Section 22-99. Connection to be made by plumber; connection specifications.
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- Section 22-101. Line specifications.
- Section 22-102. Discharges to be through regular connection; exception.
- Section 22-103. Prohibited discharges generally.
- Section 22-104. Discharges of heavy Metals and Toxic Materials (new 9/11)
- Section 22-104 A. Discharge of unpolluted drainage; combined sewers prohibited.
- Section 22-105. Grease, oil and sand interceptors for certain wastes.
- Section 22-106. Right to require pretreatment and control of, or to reject discharges.
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- Section 22-108. Measurement, sampling, etc. and report of discharges.
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- Section 22-132. Billing
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Article I. In General

Section 22-1. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 1 misdemeanor.

Section 22-2. General requirement for approved method of sewage disposal.

(a) It shall be unlawful for the owner of any house used as a place of human habitation, any warehouse, any public building or other place where human beings congregate or are employed in the Town to use or occupy, or to rent or lease the same for use or occupancy by any person, or for any person to use or occupy the same, unless the house, building or place is supplied or equipped with an approved method of disposal of human excrement.

(b) For the purposes of this section the following shall constitute approved methods of disposal of human excrement:

(1) A flush toilet installed according to the building code and connected to a public sanitary sewer or an approved, properly installed septic tank system.

(2) A sanitary closet or privy which provides for the disposal of human waste or excrement so that such will not be accessible to flies, insects, or animals or will not endanger a source of drinking water.

(3) Notwithstanding the above provisions of this section, no septic tank or sanitary closet or privy shall be installed, maintained or used on any premises required by this chapter to be connected to a public sewer.

Section 22-3. Sanitary facilities for circuses, shows, exhibitions, etc.

(a) No person shall exhibit in the Town any side show, dog and pony show, trained animal show, carnival, circus, menagerie or any other show, exhibition or performance similar thereto, until such person has provided adequate sanitary facilities for the personnel and patrons of the show, meeting with the approval of the Botetourt County health department.

(b) The Sheriff of Botetourt County, Virginia, or Town of Buchanan law enforcement officer or officers are hereby authorized not to permit the performance of any of the shows above referred to in the Town of Buchanan until a certificate from the health officer, showing that the requirements of this section have been complied with, has been secured.

Section 22-4. Permit for installation or repair of septic tank system.

(a) It shall be unlawful for any person to install or repair, have installed or repaired, allow to be installed or repaired or contract to install or repair a septic tank system for another person,

without first obtaining a septic tank permit, from the Botetourt County health department. Application for such permit shall be made to the Botetourt County health department on the proper forms provided for that purpose.

(b) Any new septic tank system or any repairs made to an existing system shall conform to the requirements of the Botetourt County health department.

Section 22-5. Materials for, and inspection and approval of, septic tank system.

All materials used in the installation or repair of a septic tank system shall strictly comply with all of the specifications required by the Botetourt County health department. No septic tank system or any part thereof shall be covered until it has been inspected and approved by the health department.

Section 22-6. Plans and specifications for sanitary closets and privies.

It shall be unlawful for any person to install a privy in the Town of Buchanan, except in accordance with the plans and specifications of the Botetourt County health department, to which application for such privy shall be made.

Section 22-7. Maintenance of sanitary closets and privies.

It shall be unlawful for any owner or tenant of a premises properly supplied with a sanitary closet or privy to neglect it or to allow it to cease to be sanitary within the meaning of section 22-2(bf12).

Section 22-8. Unlawful damage or connection to, or removal of, water, sewer, or drainage facilities.

It shall be unlawful for any person to injure, break, connect to or remove, or cause or procure any other person to injure, break, connect to or remove, any portion of any sewer line, manhole, lamp hole, flush tank, testing or metering station or related structure, or any water main, water line, water meter or related structure, or any drain or drainage system or related structure, without first obtaining the express permission of the owner thereof, or of the authority, board, commission, company or other agency having control thereof.

Section 22-9.-22-26. Reserved.

Article II. Town Water and Sewerage System Operating Policies

Division I. Generally

Section 22-27. Applicability of article.

(a) The owners of all houses, buildings, properties and premises lying within the Town of Buchanan or its service areas shall be subject to the provisions of this article. All renters or lessees of premises within the Town shall also be subject to the provisions of this chapter.

(b) The policies of this article are specifically designed to regulate the operation of Town owned or publicly designated water and sewerage works and are not intended to apply to privately owned water and sewer systems,

Section 22-28. Right of entry to determine compliance with article.

Every person occupying a lot, house or building into which water or sewer service is introduced and which is connected to the facilities of the Town shall permit the Mayor or his duly authorized representatives to enter such premises at reasonable hours to inspect the plumbing therein or to see if there has been compliance with the provisions of this article.

Section 22-29. Notice and correction of violations of article.

Any person found to be violating any provisions of this water and sewer ordinance shall be served by the Town with written notice stating the nature of the violation and setting a date, within fifteen (15) days of the date of the notice, for a meeting between a Town representative and the violator to discuss the satisfactory correction of the violation.- At the meeting, a definite plan shall be submitted by the violator, for correction of the violation. Such plan shall be subject to approval by the Town. The violator shall, within the period of time stipulated in the approved plan, permanently cease all violations.

Section 22-30. Limitation on powers of Town's employees or agents.

No promise, agreement or representation of any employee of the Town shall be binding upon the Town, except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the Town. No modification of rates or any of the rules and regulations shall be made by any agent of the Town.

Section 22-31. Application for service - generally.

- (a) Any person owning property along the line of any water or sewer main desiring the introduction of water or sewer service into his premises shall make written application to the Town Clerk or his duly appointed representative. Such application shall set forth the name of the applicant, the location and description of the property into which the service is to be introduced, the purpose for which the water is to be

used and the name of the plumber who is to do the work incident to the introduction of the water and sewer service into the premises,

Section 22-32. Same - for industrial users.

(a) Application for proposed water and sewer service which will be introduced into industrial premises within the Town or its service area shall be made in writing to the Town Clerk. Complete information regarding plant location, type of industry, raw and finished products, approximate volume of utility requirements, types of industrial waste waters to be discharged, proposed facilities for pretreatment of the industrial process wastes and other data pertinent to the industry shall accompany the application. The industrial applicant shall conform to all requirements for application for water and sewer service as outlined in this article for non-industrial users and as may be governed by the industrial site.

(b) Any designs, plans and specifications required in this article of applicants for industrial water or sewer service, and all subsequent revisions thereof, shall be prepared and properly signed by a civil engineer registered in the state. Any industry which is connected to any of the facilities of the Town will be subject to all requirements of this article. In addition, such industry will be required to comply with the industrial, cost recovery portion of the user charge system rate schedule for both water and sewer services, as approved by the United States Environmental Protection Agency and the Virginia Water Control Board.

Section 22-33. Service contract.

Before water and sewer service is furnished by the Town to any person, a contract covering such service shall be entered into by the applicant and the Town. No person shall use the water for any purpose not covered in his contract with the Town.

Section 22-34. Discontinuance of service generally.

The Town reserves the right to discontinue service from its facilities to the user, without notice, for any of the following reasons:

- (1) To prevent fraud or abuse.
- (2) The user willful disregard of the provisions of this article or regulations of the Town.
- (3) Emergency repairs.
- (4) Insufficiency of supply due to circumstances beyond the Town's control.
- (5) Legal processes issued against the Town.
- (6) Strikes, riots, fires, floods or accidents,
- (7) Denial of entry for inspection.
- (8) Any unavoidable cause.

Section 22-35. Construction of cesspools or septic tanks near Town's facilities.

No cesspool or septic tank shall be constructed within two hundred fifty (250) feet of the facilities of the Town.

Section 22-36.-22-45. Reserved.

Division 2. Water Generally

Section 22-46. Designation of public systems.

The Town shall designate only those water systems as public systems which are owned and administered by a publicly elected or appointed governing board or body and which are intended for the sole nonprofit use of the citizens in the community or an agency or entity which is established under the Code of Virginia or statutes of the United States, except in the case of a health emergency.

Section 22-47. Mandatory connections - generally.

(a) No owner of any premises located within two hundred fifty (250) feet from any street, alley or right-of-way in which there is located a Town owned or publicly designated water main shall use or allow such premises to be used for human habitation or for any business or purpose, or occupy or lease such for occupancy, until such premises has received a water tap and meter. At the option of the owner of such premises which are used solely for residential purposes, the use of a private water supply may continue so long as it is approved by the health department. No owner of a building that is used for purposes other than residential or a house that is rented or leased for residential use shall allow such premises to be used, without first connecting the plumbing of such to the Town owned or publicly designated system, in order to ensure the health and safety of persons other than himself.

(b) No owner or premises requiring the use of water that is constructed in the future and is within two hundred fifty (250) feet of a Town owned or publicly designated water system shall use such premises until it has first been connected to the water system.

Section 22-48. Same - for recreation camps, construction camps, etc.

No person shall maintain or rent or lease any recreation or construction camp or camping place for tourists, use any building for educational purposes or permit the use of any building or tent for protracted meetings, until such camp or building is connected with a Town owned or publicly designated water system, if the public water mains are located within one thousand (1000) feet of such camp or building.

Section 22-49. Connection for alteration permit.

No person shall make any connection with the water facilities of the Town or alter any fixtures connected to waterworks, without first having received a written permit from the Mayor or his duly authorized representative.

Section 22-50. Connection equipment and installation generally.

The Town shall furnish for each person with whom it contracts to supply water a water meter of regular size with a meter box, shall tap the water main, lay the pipeline to the outer edge of the right-of-way line adjacent to property to which water is to be furnished and install the water meter. For such equipment and installation thereof, the owner of the premises shall pay the Town such sum as may be directed by general regulation. Should a meter larger than regular size be desired, the owner of the premises shall pay the additional amount necessary to purchase and install the same.

Section 22-51. Persons authorized to make connections, alterations, etc.

(a) No person, other than a person duly authorized by the Town, shall introduce water from facilities of the Town into any lot or building, construct or lay down pipes or other appurtenances for such purpose, break tip any street for the construction or laying down of pipes or other appurtenances for such purpose or introduce any fixture into any facilities of the Town.

(b) Any person who makes connection to or alteration of any water facilities of the Town shall have the work performed by a qualified and registered plumber. Both the owner and plumber shall be responsible and liable for any leakage in or damage to such main by reason of his work. In case of such leakage or damage, the owner or plumber to whom the permit was issued shall be required to repair the main to the satisfaction of the Town.

Section 22-52. Proper equipment prerequisite to tapping of main.

No person shall tap a public water main until he has such apparatus available as will enable him to affect the connection without interference or disturbance with the rest of the system.

Section 22-53. Inspection and approval of connections; guarding of excavations.

Every plumber, upon completion of a connection with the water facilities of the Town, shall report such connection immediately to the Mayor or his duly authorized representative for his inspection. The connection shall not be covered until the inspection has been made and approval given. It shall be the responsibility of the plumber making such connection to place barriers by day and flares by night around any excavation or pile of dirt or rubbish.

Section 22-54. Power of authority to limit use or decrease or cut off supply.

The Town shall have the power, at any time when public necessity requires to stop the use of water for fountains; sprinkling sidewalks, streets and lawns; washing cars; and other nonessential uses. The Town shall have the power to decrease or cut off the supply of water in case of insufficient supply caused by dry seasons or periods. Such decrease of supply of water shall be made to all alike.

Section 22-55. Notice of user’s desire that service be discontinued.

Should a user wish to discontinue water service from the facilities of the Town, he shall notify the Mayor or his duly authorized representative, in writing, ten (10) days prior to the last day of the month. There will be a charge for the following month in the event such notice is not given.

Section 22-56. User turning water on or off at meter.

No user shall cut the water on or off at the meter, without first securing permission from the Mayor or his duly authorized representative, except in the case of an emergency leakage, in which case the user shall be responsible for all damage done to the fixtures at the meter.

Section 22-57. Damaging, obstructing, etc., Town’s facilities.

No person shall remove, deface or injure a building, fire hydrant, pipe or any other water facility of the Town. No person shall obstruct access to any of such facilities. No person shall place any building material or rubbish at the valves or hydrants on any street or service pipe. No person shall open any pipe, fire hydrant or blow-off valve so as to waste water.

Section 22-58.-22-70. Reserved

Division 3. Cross-Connection Control and Backflow Prevention

Section 22-71. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airgap: The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood—level rim of the receptacle.

Approved: Accepted by the Town as meeting an applicable specification stated or cited in this division or as suitable for the proposed use.

Auxiliary supply: Any water source or system other than the potable water supply that may be available in the building or premises.

Backflow: The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source.

Backflow preventer: A device or means to prevent backflow.

Backsiphonage: Backflow resulting from negative pressures in the distributing pipes of a potable water supply.

Barometric loop: A loop of pipe rising at least thirty-five (35) feet, at its topmost point, above the highest fixture it supplies.

Check valve: A self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

Cross-connection: Any physical connection between a potable water supply and any waste pipe, soil pipe, sewer, drain or any unapproved source or system. Furthermore, it is any potable water supply outlet which is submerged or can be submerged in waste water or any other source of contamination.

Drain: Any pipe that carries waste water or water—borne wastes in a building drainage system.

Fixture, plumbing: Installed receptacles, devices or appliances supplied with water or that receive or discharge liquids or liquid—borne wastes.

Flood-level rim: The edge of a receptacle from which water overflows.

Hazard, health: Any conditions, devices or practices in the water supply system and its operation which create or, in the judgment of the Town's consulting engineer, may create a danger to the health and well being of the water user. An example of a health hazard is a structural defect in the water supply system, whether of location, design or construction, that regularly or occasionally may prevent satisfactory- purification of the water supply or cause it to be polluted from extraneous sources.

Hazard, Plumbing: Any arrangement of plumbing, including piping and fixtures, whereby a cross-connection is created,

Health Department: The Botetourt County health department.

Hydropneumatic tank: A pressure vessel in which air pressure acts upon the surface of the water contained within the vessel, pressurizing the water distribution piping connected to the vessel.

Inlet: The open end of the water supply pipe through which the water is discharged into the plumbing fixture.

Person: shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or municipality, or other similar organization, agency, or group.

Plumbing system: Includes the water supply and distribution pipes; plumbing fixtures and traps; soil, waste and vent pipes; building drains and building sewers, including their respective connections, devices and appurtenances within the property lines of the premises; and water-treating or water-using equipment.

Pollution; contamination: The presence of any foreign substance (organic, inorganic, radiological or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Reduced pressure principal backflow preventer: An assembly of differential valves and check valves, including an automatically opened spillage port to the atmosphere, designed to prevent backflow.

Surge tank: The receiving, non-pressure vessel forming part of the airgap separation between a potable and an auxiliary supply.

Vacuum: Any pressure less than that exerted by the atmosphere.

Vacuum breaker, non-pressure type: A vacuum breaker designed so as not to be subjected to static line pressure.

Vacuum breaker, pressure type: A vacuum breaker designed to operate under conditions of static line pressure.

Water, non-potable: Water that is not safe for human consumption or that is of questionable potability.

Water, potable: Water free from impurities in amounts, sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the federal drinking water standards or to the regulations of the public health authority having jurisdiction.

Section 22-72. Contamination control generally.

(a) The Town's waterworks system shall be designed, installed and maintained in such manner as to prevent contamination from non-potable liquids, solids or gases from being introduced into the potable water supply through cross-connections or any other piping connections to the system. No person shall allow or cause contamination to the facilities of the Town.

(b) The Mayor or his duly authorized representative shall inspect the plumbing in every building or premises in the Town, as frequently as in his judgment may be necessary, to ensure that such plumbing has been installed in such a manner as to prevent the possibility of contamination of the waterworks of the *Town* by the plumbing. The Mayor or his agent shall notify, in writing, the owner or authorized agent of the owner of any such building or premises to correct, within a reasonable time set by the Town, any plumbing installed or existing contrary to or in violation of this division and which, in his judgment, may permit the contamination of any of the facilities of the Town.

(c) The Mayor or his designated agent shall have the right of entry into any building during reasonable hours for the purpose of making inspection of the plumbing systems installed in such premises; provided that, with respect to the inspection of any single-family dwelling,

consent to such inspection shall first be obtained from a person of suitable age and discretion therein or in control thereof.

Section 22-73. Cross-connections generally.

(a) Cross-connections between potable systems and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where, as approved by the Town having jurisdiction, suitable protective devices, such as the reduced pressure zone backflow preventers or equal, are installed, tested and maintained to ensure proper operation on a continuing basis.

(b) No owner of any premises which are connected to a Town owned or publicly designated water system shall be permitted to connect another water supply source, such as a well, spring or cistern, to the same plumbing system, except as otherwise specifically provided.

(c) Cross connections between an individual water supply and potable public supply shall not be made, unless specifically approved by the health authority having jurisdiction.

Section 22-74. Interconnection between public supplies.

Interconnection between two (2) or more public water supplies shall be permitted only with the approval of the health authority having jurisdiction.

Section 22-75. General requirements for protective devices.

(a) Approved devices to protect against backflow and back siphonage shall be installed at all fixtures and equipment where backflow or back siphonage may occur and where minimum airgap cannot be provided between the water outlet to the fixture or equipment and its flood-level rim.

(b) Where a water connection is not subject to backpressure, a vacuum breaker shall be installed on the discharge side of the last valve on the line servicing the fixture or equipment. A list of some of the conditions requiring protective devices of this kind is given in table 3.86A of the Environmental Protection Agency Cross—Connection Control Manual.

(c) Where a potable water connection is made to a line, fixture, tank, vat, pump or other equipment with a hazard of backflow or back siphonage and the water connection is subject to backpressure and airgap cannot be installed, the Town may require the use of an approved reduced pressure principal backflow preventer.

Section 22-76. Specific connections requiring protection.

(a) Potable water connections to boilers shall be made through an airgap or provided with an approved backflow preventer.

(b) Connection to the potable water supply system for the following is prohibited, unless protected against backflow in accordance with this division.

(1) Bidets.

- (2) Operating, dissection, embalming and mortuary tables or similar equipment. In any such installation, the hose used for water supply shall terminate at least twelve (12) inches away from every point of the table or attachments.
- (3) Pumps for non-potable water, chemicals or other substances. Priming connections may be made only through an airgap.
- (4) Building drainage, sewer or vent systems.
- (5) Any other fixture of similar hazard.
- (c) Except for potable water provided for a refrigerator condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, the inlet connection shall be provided with an approved check valve. Also, adjacent to and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) pounds per square inch above the maximum water pressure at the point of installation shall be provided, if the refrigeration unit contains more than twenty (20) pounds of refrigerants.

Section 22-77. Protection of outlets generally.

A potable water system shall be protected against backflow and back siphonage by providing and maintaining at each outlet:

- (a) An airgap between the potable water outlet and the flood level rim of the fixture it supplies or between the outlet and any other source of contamination; or
- (b) A device or means to prevent backflow.

Section 22-78. Protection where outlet terminates below rim of tank or vat.

- (a) Where a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in table 3.85 of the Environmental Protection Agency's Cross—Connection Control Manual, the overflow pipe shall be provided with an airgap as close to the tank as possible.
- (b) The potable water outlet to the tank or vat shall terminate at a distance not less than one and one half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat and with all outlets, except the airgap overflow outlet, closed. The distance from the outlet to the high-water level shall be measured from the critical point of the potable water supply outlet.

Section 22-79. Low pressure cut off required for certain booster pumps.

When a booster pump is used on a water pressure booster system and the possibility exists that a positive pressure of ten (10) pounds per square inch or less may occur, a low-pressure cutoff shall be used.

Section 22-80. Airgap specifications.

- (a) The minimum required airgap shall be measured vertically from the lowest end of a potable water outlet to the flood rim or line of the fixture or receptacle into which it discharges.
- (b) The minimum required airgap shall be twice the effective opening of a potable water outlet, unless the outlet is a distance less than three (3) times the effective opening away from a

wall or similar vertical surface, in which case the minimum required airgap shall be three (3) times the effective opening of the outlet, In no case shall the minimum required airgap be less than shown in table 3.8 of the Environmental Protection Agency's Cross-Connection Control Manuals.

Section 22-81. Certification of protective devices.

Before any device for the prevention of backflow or back siphonage is installed, it shall have first been certified by a recognized testing laboratory acceptable to the Town.

Section 22-82. Installation and location of protective devices generally.

(a) Vacuum breakers shall be installed with the critical level at least six (6) inches above the flood level rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shutoff valve or faucet shall be installed beyond the vacuum breaker. For closed equipment or vessels, such as pressure sterilizers, the top of the vessel shall be treated as the flood level rim, but a check valve shall be installed on the discharge side of the vacuum breaker.

(b) A reduced pressure principal type backflow preventer may be installed subject to full static pressure.

(c) Backflow and back siphonage preventing devices shall be accessibly located, preferably in the same room with the fixture they serve. Installation in utility or service spaces, provided they are readily accessible, is permitted.

Section 22-83. Use of double check-double gate valve assemblies as protection devices.

The Town may authorize the installation of approved, double check-double gate valve assemblies with test cocks as protective devices against backflow in connections between a potable water system and other fluid systems which present no significant health hazard in the judgment of the Town's consulting engineer.

Section 22-84. Maintenance of protective devices.

Devices installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person responsible for the maintenance of the system.

Article II. Sewers

Division 1. In General

Section 22-85. Purposes.

The purpose of this section is to provide for the maximum possible beneficial public use of the Town of Buchanan treatment works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein.

Section 22-86. Scope.

(a) The definitions of terms used in this ordinance are found in Division 2. The provisions of this Ordinance shall apply to the discharge of all wastewater to treatment works of the Town. This ordinance provides for use of the Town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing plans, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this ordinance.

(b) This ordinance shall apply to the Town of Buchanan and to persons outside the Town who are, by contract, permit or agreement with the Town, users of the Town's treatment works.

Section 22-87. Administration.

Except as otherwise provided herein, the Mayor and Town Council of the Town of Buchanan and their duly authorized representatives shall administer, implement, and enforce the provisions of this ordinance

Section 22-88. Inspections; information requirements.

(a) The Mayor or his duly authorized representative or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source of treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this ordinance.

(b) The Mayor or his duly authorized representative shall be permitted to enter all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the treatment works within the easement. All entry and any subsequent work on the easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in sections (a) and (b) above, the Mayor or his duly authorized representative shall observe all safety and

occupational rules established by the owner or occupant of the property and applicable to the premises.

(d) All industrial users shall file with the Town wastewater information deemed necessary by the Mayor or his duly authorized representative for determination of compliance with this ordinance, the Town's VPDES permit conditions, and state and federal law. Information designated by the discharger as confidential is subject to conditions of confidentiality as determined by the Town and the applicable laws. Such information shall be supplied to the Town as requested by the Mayor or his duly authorized representative. Such information *may* require chemical characterization as well as quantity measurements. Each industrial user shall promptly notify the Town if the quantity or character of its wastewater changes from that described in the original information filed with the Town.

Section 22-89. Amendments of the ordinance; review of the ordinance.

Public notice shall be given in accordance with applicable provisions of the Town Charter, other Town ordinances, State and Federal law, prior to adoption of any amendments of this ordinance. This ordinance shall be reviewed annually.

Division 2. Definitions.

Section 22-90. Specific Definitions.

Unless the context of usage indicates otherwise, the meaning of specific terms in this Article (Article II) shall be as follows:

Act shall mean the Federal Clean Water Act, 33. U.S.C. 1251 et seq.

Applicant means the individual, group of individuals, partnership, firm, association, institution, corporation, political subdivision or agency that is the owner of the property for which such applicant is making application for connection to the county's water or sewer system or for the establishment of a new water or sewer system or expansion of an existing water or sewer system.

ASTM shall mean the American Society for Testing and Materials.

Authorized Representative of Industrial User shall mean:

- (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or
- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or
- (3) A duly authorized representative of the individual designated in #1 or #2, above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the Mayor or his duly authorized representative prior to or together with any reports to be signed by the authorized representative.

BOD (denoting Biochemical oxygen demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

Building Sewer shall mean the extension from a building wastewater plumbing facility to the treatment works.

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Capital costs means a sum sufficiently recovered by user charges computed by using the capital recovery factor for the average life of all capital items including capitalized operation and maintenance charges (unless collected separately) on which expenditures have been made or will have to be made for water or wastewater treatment facilities, processes or transmission lines. Capital costs may be adjusted from time to time to reflect cost experience.

Categorical standards mean national categorical pretreatment standards or pretreatment standard.

COD (chemical oxygen demand) means the measure, expressed in mg/l, of the oxygen consuming capacity of inorganic and organic matter present in water or waste water, expressing the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

COD-BOD ratio means the ratio of the value of COD to BOD as these values are defined above.

COD (soluble) means the COD of the filtrate from wastewater that is filtered through a Gooch crucible as required by the suspended solids test in "Standard Methods."

Combined sewer means a sewer receiving both sanitary sewage and storm water.

Connection means a tap into the water distribution main for the purpose of supplying water to a potential user or a connection to the sanitary sewer.

Connection fee means a charge payable to the county or authorized representative for connection to a county water system or a sanitary sewer.

Control point means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

County means Botetourt County and/or the Botetourt County Department of Public Facilities and Programs or authorized representative.

Day shall mean the 24 hours period beginning at 12:01 a.m.

Discharge means any introduction of substances into the sanitary sewer.

Discharger shall mean person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Establishment shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters;

Existing means those structures, buildings or facilities which are completely or in part constructed on or before the date that water or sewer service is made available by the Town.

Facilities of the Town mean any and all component and pertinent parts of the entire system of the water and sewer works under the jurisdiction of the Town, now constructed, installed, operated or maintained by the Town or any of which may be approved and accepted in the future as additions or extensions of the systems.

Future means those structures, buildings or facilities which are constructed after water or sewer service is made available by the Town.

Garbage means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Groundwater shall mean any water beneath the land surface in the zone of saturation.

Hazardous waste means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristic may:

- (1) Cause or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed; and
- (3) Normally not be discharged into a sanitary sewer; subject to regulated disposal.

Incompatible waste means a waste which is not susceptible to adequate treatment by the wastewater treatment plant.

Industrial user means any user that discharges nondomestic pollutants into the sanitary sewer or plant, regulated by Sections 307(b), (c) and (d) of the act, or any user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1987, Office of Management and Budget, as amended and supplemented, under divisions A, B, D, E and I, including governmental facilities that discharge wastewater to the sanitary sewer or plant.

Industrial waste means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

Industrial wastewater means the liquid wastes from industrial processes, as distinct from sanitary sewage.

Infiltration means water entering a sewer system, including service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

Inflow means water discharge into a sewer system, including service connections, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage. It does not include, and is distinguished from, infiltration.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, (1) inhibits or disrupts the sewage treatment plant, its treatment processes or operations, or its sludge processes, use or disposal or (2) causes a violation of the plant's VPDES permit.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Mayor shall mean the Mayor of the Town of Buchanan or his authorized representative.

Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) and 40 C.F.R. Subchapter N (Parts 401-471) as amended, which applies to a specific category of industrial users.

New source means:

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is

integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. or c. above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous onsite construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Normal wastewater means the wastewater discharged into the sanitary sewers in which the average concentration of total suspended solids and BOD is not more than two hundred fifty (250) mg/l, total phosphorus is not more than fifteen (15) mg/l, total Kjeldahl nitrogen is not more than eighteen (18) mg/l and total flow is not more than ten thousand (10,000) gallons per day.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Owner or developer means any person having an interest, whether legal or equitable, sole or partial, in any premises which is, or may be in the future, served by the facilities of the county and who is, or may be in the future, responsible for design and construction of facilities to be under the jurisdiction of the county and to become a part of the public works system of the county.

Pass-Through shall mean the discharge of pollutants through a POTW into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

ph means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in grams per liter.

Plant means the public sewage treatment plant or plants utilized or operated by the Town of Buchanan.

Potable water means water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for domestic usage.

P.O.T.W. means a publicly owned treatment works which is owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation

of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Premises means any building, group of buildings or land upon which buildings are to be constructed which is or may be served by the facilities of the county.

Public means a water or sewer system in which all owners of abutting properties have equal rights; and which is controlled by the county or which is designated by the county as a "public" system following request for such designation by the system owner; and which has a valid waterworks operation permit issued by the state department of health, bureau of sanitary engineering, or a valid permit to discharge issued by the state water control board, except as approved by the county.

Public sewer means any pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, which is owned by the county, the Town of Buchanan or the Town of Fincastle.

Public water or sewer system means a water or sewer system in which all owners of abutting properties have equal rights; and which is controlled by the county, the Town of Buchanan, the Town of Fincastle, or the Town of Troutville.

Sanitary sewage means wastewater which derives principally from dwellings, businesses, institutions and the like, exclusive of any storm water or industrial wastewaters.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewer means a pipe or conduit for carrying sewage.

Sewer system/sewerage works means all facilities for collecting, pumping, treating and disposing of sewage, excluding septic systems.

Slug means any discharge of water, wastewater or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows or constituent quantity during normal operation.

Storm sewer means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed and which is not intended to be transported to a treatment works.

Storm water means rainfall or any other forms of precipitation.

Surface Water shall mean:

- (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (ii) all interstate waters, including interstate “wetlands”;
- (iii) all other waters such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands”, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign Commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (iv) all impoundments of waters otherwise defined as surface waters under this definition;
- (v) tributaries of waters identified in paragraphs (1) - (iv) of this definition;
- (vi) the territorial sea; and
- (vii) “Wetlands” adjacent to waters, other than waters that are themselves wetlands, identified in paragraphs (i)-(iv) of this definition.

Suspended solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

Town shall mean the Town of Buchanan.

Toxics shall mean any of the pollutants designated by Federal regulations pursuant to section 307(a) (1) of the Act.

Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Treatment Facility shall mean only those mechanical Power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

Treatment Works shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

Unpolluted wastewater means water containing:

- (1) No free or emulsified grease or oil.
- (2) No acids or alkalis.
- (3) No phenols or other substances producing taste or odor in receiving water.
- (4) No toxic or poisonous substances in suspension, colloidal state or solution.
- (5) No noxious or otherwise obnoxious or odorous gases.
- (6) Not more than ten (10) mg/l each of suspended solids and BOD.
- (7) Color not exceeding fifty (50) units, as measured by the Platinum-Cobalt method of determination, as specified in "Standard Methods for the Examination of Water and Wastewater."

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User shall mean a source of wastewater discharge into a POTW.

User charge means the charge made to those persons who discharge normal wastewater into the Town's sewage system.

User surcharge means the charge made, in excess of the user charge, for all wastewater over and above the loading defined as normal wastewater.

VPDES shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

Waste means rejected, unutilized or superfluous substances, in liquid, gaseous or solid form, resulting from domestic, agricultural or industrial activities.

Wastewater means a combination of the water-carried waste from the residences, business buildings, institutions and industrial establishments, together with any ground, surface and storm water that may be present.

Wastewater facilities include all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater treatment plant means any publicly owned facilities, devices and structures used for receiving, processing and treating wastewater, industrial waste and sludges from the sanitary sewers.

Wastewater service charge means the charge on all users of the public sewer whose wastes are treated at the plant and is the appropriate sum of the user charge and user surcharge.

Water main means a pipe or conduit for distributing potable water.

Watercourse means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

Water, non-potable: Water that is not safe for human consumption or that is of questionable potability.

Water, potable: Water free from impurities in amounts, sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the federal drinking water standards or to the regulations of the public health authority having jurisdiction.

Water system/waterworks means all facilities for supplying, treating, pumping and distributing potable water. Excludes individual wells serving residences or businesses and which are approved by the health department.

Division 3. Connections and discharges.

Section 22-91. Accidental Discharges.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Plans showing facilities and operating procedures to provide this protection shall be submitted to the Town upon request.

(b) Should any accidental discharge occur the user shall notify the Town by telephone immediately. Within five (5) days following an accidental discharge, the user shall submit to the Mayor or his duly authorized representative a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

Section 22-92.-22-95. Reserved

Section 22-96. Mandatory connections.

No person, being the owner of a house or other building within two hundred fifty (250) feet of a Town owned or publicly designated sewerage system shall use such house or building or allow it to be used for human habitation or for any business or other purpose, or occupy or lease it for such occupancy, until such house or building has been connected with the public sewer in such a manner as to carry away effectively the human waste or excrement from such house or building into the public sewer.

Section 22-97. Permit for connection.

No connection of any kind shall be made with the sewer facilities of the Town without proper authorization from the Town.

Section 22-98. Use of available public water prerequisite to connection.

If available, water use and connection thereof to the facilities of the Town shall be a prerequisite for connection to an authority owned sewerage system.

Section 22-99. Connection to be made by plumber; connection specifications.

Connections to the sewer facilities of the Town shall be made by a qualified and registered plumber and shall be made in accordance with the specifications required by the Town.

Section 22-100. Inspection and approval of connection; guarding of ditch; Town to be held harmless from damages caused ~ work on connection.

The plumber making a sewer connection shall notify the Town Clerk when the connection is complete, and he shall leave the ditch uncovered until an inspection has been made and the connection approved. It shall be the responsibility of the plumber to provide for barriers by day and flares by night around the ditch. The plumber shall indemnify, hold harmless and receive the authority of any responsibility and liability for damages caused by work on the connection in question.

Section 22-101. Line specifications.

(a) Sewer lines on private property shall be constructed of pipe not less than four (4) inches in diameter. A proper ventilation pipe shall be placed on the building. The trench shall be not less than two (2) feet deep, except where it is impossible on account of fall or other physical conditions. The grade shall be a minimum of one-eighth inch per foot.

(b) Any sewer line which the Town may authorize to be laid along any street shall be constructed in accordance with plans and specifications prepared by a registered professional engineer in the state and under his supervision.

Section 22-102. Discharge to be through regular connections; exception.

No person shall discharge any animal or human excrement, garbage or other objectionable waste, from septic tanks or otherwise, directly into any sewer facilities of the Town by means other than through regular sewer connections, exception at a location to be designated by the Town and then only under the directions of the Town's consulting engineer.

Section 22-103. Prohibited Discharges.

- (a) No person shall discharge into public sewers any waste which, by itself or by interaction with other wastes, may:
1. Contain gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
 2. Contain any garbage resulting from the preparation, cooking or dispensing of food, which garbage has not been properly shredded;

3. Contain any ashes, cinder, sand, mud, straw, shavings, metals, glass, rags, feathers, tar, plastics or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage works;
4. Injure or interfere with wastewater treatment processes or facilities;
5. Constitute a hazard to humans or animals;
6. Create a hazard in receiving waters of the wastewater treatment plant effluent;
7. Generate heat in amounts which will inhibit biological activity in the plant resulting in interference, but in no case heat in such quantities that the temperature at the plant exceeds forty (40) degrees Celsius (one hundred and four (104) degrees Fahrenheit) unless the [control] authority approves alternate temperature limits;
8. Contain any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(b) Discharges into public sewers shall not contain:

1. Antifreeze from vehicles servicing operations. Discharge of glycols must be approved;
2. Fluoride other than that contained in the public water supply greater than 4.0 mg/L;
3. Benzene, toluene, ethylbenzene, xylene (BTEX) greater than five (5.0) mg/L;
4. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21;
5. Substances causing a chemical oxygen demand (COD) greater than one thousand five hundred (1,500) mg/L in the wastewater;
6. Strong acid or concentrated plating solutions, whether neutralized or not;
7. Fats, wax, grease or oils, whether emulsified or not, in excess of two hundred (200) mg/L or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (0 and 65 degrees Celsius);
8. Obnoxious, toxic or poisonous solids, liquids, or gases, vapors or fumes in quantities sufficient to violate the provisions of subsection (a) of this section;
9. Waste, wastewater or any other substance having pH lower than five and ½ (5.5) or higher than nine (9.0) or any other substance with a corrosive property capable of causing damage or hazard to structures, equipment or personnel at the wastewater facility;
10. Substances which cause a COD to BOD ratio greater than five (5);

11. Waste, wastewater or any other substance containing phenols, hydrogen sulfide or other taste and odor-producing substances that have not been minimized. After treatment of the composite wastewater, effluent concentration limits may not exceed the requirements established by State, Federal or other agencies with jurisdictions over discharges to receiving waters;
12. Antimony and Beryllium greater than 1.0 mg/L;
13. Hazardous wastes;
14. Trucked or hauled pollutants, except at discharge points designated by the Town. Companies that truck or haul pollutants to the POTW are subject to inspections of their facilities including but not limited to offices, garages and buildings used to house the trucks;
15. Trucked or hauled industrial wastewater without prior approval and not meeting all local limits with the exception that wastewater pumped from restraint grease traps may only be trucked or hauled and discharged only at designated area at the wastewater treatment facility;
16. After treatment of the composite wastewater, effluent concentration limits may not exceed the requirements established by State, Federal or other agencies with jurisdiction over discharges to receiving waters;
17. Total petroleum hydrocarbons in excess of 200 mg/L;
18. Metals, broken glass or other material that could damage equipment;
19. Any water or waste containing suspended solids of such character and quantity, or water or waste having five-day oxygen demands sufficient, in the opinion of the Town's consulting engineer, to require pretreatment. Generally, maximum acceptable limits shall be a five-day biochemical oxygen demand of three hundred (300) milligrams per liter and/or suspended solids concentration of three hundred (300) milligrams per liter;
20. Any water or waste likely to cause unusual distribution of flow volumes or concentrations of waste or excessive peaks in maximum volumes or concentrations;
21. Water or waste containing substances which are non-biodegradable by the sewage treatment processes employed or are biodegradable only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
22. Water or waste that causes excessive discoloration, such as, but not limited to, dye waste and vegetable tanning solutions;
23. Waste pumped from oil/water separators;
24. Waste or pollutants which may cause interference or pass through;
25. Water or waste at a high flow rate or concentration of pollutants that may interfere with the plant;

(c) Prohibited toxic materials include, but are not limited to:

1. Herbicides: All
2. Fungicides: All
3. Pesticides: All

Section 22-104 Discharges of Heavy Metals and Toxic Materials.

(a) Discharges shall not contain concentrations of heavy metals greater than amounts specified in subsection (b) of this section.

(b) The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/L), determined on the basis of individual sampling in accordance with “Standard Methods” are:

1. Arsenic: 0.18 mg/L;
2. Barium: 5.0 mg/L;
3. Boron: 1.0 mg/L;
4. Cadmium: 0.03 mg/L;
5. Chromium (Total): 1.95 mg/L;
6. Chromium VI: 0.06 mg/L;
7. Copper: 0.50 mg/L;
8. Cyanide: 0.06 mg/L;
9. Lead: 0.30 mg/L;
10. Manganese: 1.0 mg/L;
11. Mercury: 0.002 mg/L;
12. Nickel: 0.23 mg/L;
13. Selenium: 0.02 mg/L;
14. Silver: 0.32 mg/L;
15. Zinc: 0.80 mg/L;
- 16.

Section 22-104A. Discharge of Unpolluted Drainage – Combined Sewers Prohibited.

Storm water, surface water, groundwater, roof runoff and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town. Industrial cooling water or unpolluted process water may be discharged, upon approval of the Town’s consulting engineer, to a storm sewer or natural outlet. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted process water to any sanitary sewer. The construction of combined sewers is expressly prohibited within the Town and no modifications of existing sanitary sewer system will be permitted which would cause any portions of the sewer to function as a combined sewer.

Section 22-105. Grease, Oil and Sand Interceptors for Certain Wastes.

Interceptors for grease, oil and sand, flammable wastes and other harmful substances shall be provided by the owner of the property connected to the sewer facilities of the Town when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing ingredients referred to in Section 22-103, any other ingredient of a flammable or harmful nature, grease in excessive amounts or sand, except, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town and shall be located so as to be readily easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

- (a) Where installed, all grease, oil and sand interceptors shall be approved by the [control] authority and maintained by the owner, at his expense, in continuously efficient operation at all times.
- (b) Interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the interceptor.
- (c) Interceptors shall be maintained for efficient removal of design constituents and shall be cleaned at a minimum every 90 days. Some establishments may need to clean interceptors more frequently. It is the responsibility of the establishment to monitor and clean interceptors as needed but no less than every 90 days.
 - 1. Every establishment having an interceptor shall maintain a log of each pumping for the previous (3) years. The log shall include the date, time, name of the waste hauler and shall be kept on the premises of the establishment for inspection by authorized Town personnel.

Section 22-106. Right to require pretreatment and control of, or to reject discharges.

- (a) If discharges or proposed discharges into public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters: create hazard to life or health: or create public nuisance: the control authority shall require:
 - (1) Pretreatment to an acceptable condition before discharge into the public sewers;
 - (2) Control over the quantities and rates of discharge; and
 - (3) Payment to cover cost of handling and treating the wastes, in addition to capital costs.
- (b) The control authority shall have the right to determine whether a discharge or proposed discharge is included under subsection (a) of this section.
- (c) The control authority shall reject wastes when it determines that a discharge or proposed discharge is included under subsection (a) of this section and the discharger does not meet the requirements of subsection (a) of this section.
- (d) No person shall utilize dilution as a means of treatment.

Section 22-107. Design, installation and maintenance of pretreatment and control facilities.

- (a) If pretreatment or control is required, the control authority may, at its sole discretion, require, review and approve the design and installation of equipment and processes and require the installation of monitoring equipment for inspection and enforcement purposes. The design and installation of such equipment and processes shall conform to all applicable statutes, codes, ordinances and other laws, including federal categorical pretreatment standards.
- (b) Any person responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

Section 22-108. Measurement, sampling, etc., and report of discharges.

(a) The owner of each facility discharging other than normal wastewater shall upon the written request of the control authority submit monthly or at such other frequency as may be required by the control authority, to the Town on forms supplied by the Town a certified statement of the quantities of its waste discharged into the public sewers and sewage works or into any sewer connected there with. Copies of pertinent water bills may be required to be submitted with the above statement. Such documents shall be filed with the Town not later than the tenth day of the following month. A separate statement shall be filed for each industrial plant. The total quantities of waste to be measured and certified by the person so discharging shall be established by the control authority and shall, as a minimum include:

- (1) Liquid in gallons.
- (2) Five -day BOD in mg/L.
- (3) Suspended solids in mg/L.
- (4) Total phosphorus in mg/L.
- (5) Total Kjeldahl nitrogen in mg/L.
- (6) COD in mg/L.

(b) Unless otherwise provided, each measurement, test, sampling, or analysis required to be made hereunder shall be made in accordance with 40 C.F.R. Part 136, as amended.

(c) In order to provide for accurate sampling and measurement and industrial wastes, each person discharging regulated wastewater shall provide and maintain, on each of its industrial waste outlet sewers, a large manhole or sampling chamber to be located outside or near its plant boundary line, where feasible. If inside the plant fence, there shall be a gate near the sampling chamber with a key furnished to the Town.

There shall be ample room provided in each sampling chamber to enable water, roof runoff, and subsurface drainage, to any sanitary sewer. Cooling water or unpolluted process water are excluded from discharge to the sanitary sewer except as approved by the Town. The construction of combined sewers is expressly prohibited within the Town and no modifications of existing sanitary sewer systems will be permitted which would cause any portion of the sewer to function as a combined sewer.

Section 22-109. Temperature of discharges.

No person shall discharge liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to one hundred four (104) degrees Fahrenheit.

Section 22-110. Discharge of radioactive wastes.

- (a) No person shall discharge radioactive wastes or isotopes into public sewers, without the permission of the control authority.
- (b) The control authority reserves the right to establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive waste into public sewers.

Section 22-111. Discharge of substances capable of impairing, etc., facilities.

- (a) No person shall discharge into public sewers any substance capable of causing.
 - (1) Obstruction to the flow in sewers;
 - (2) Interference with the operation of treatment processes or facilities; or
 - (3) Excessive loading of treatment facilities.
- (b) Discharges prohibited by subsection (a) of this section include, but are not limited to, materials which exert or cause concentration of:
 - (1) Inert suspended solids greater than 250 mg/1 including, but not limited to Fuller's earth, lime slurries and lime residues.
 - (2) Dissolved solids greater than 500 mg/1 including, but not limited to sodium sulfate.
 - (3) Excessive discoloration including, but not limited to dye wastes and vegetable tanning solutions. Color (due to dye)
 - (4) Wastes having a COD to BOD ratio greater than 5 to 1. Industries having wastewater of this nature shall provide pretreatment as required by the control authority.
- (c) No person shall discharge into public sewers any substance that may:
 - (1) Deposit grease or oil in the sewer lines in such manner as to clog the sewers;
 - (2) Overload skimming and grease handling equipment;
 - (3) Pass to the receiving water without being effectively treated by normal wastewater treatment processes due to the non-amenability of the substance to bacterial action; or
 - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person shall discharge incompatible waste into public sewers which:
 - (1) is not amenable to treatment or reduction by the wastewater treatment processes and facilities employed; or
 - (2) is amenable to treatment only to such degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving waters. Subsection (b) of this section illustrates the types of substances intended to be regulated by this subsection.
- (e) The control authority shall regulate the flow and concentration of slugs. All industrial users shall notify the control authority of all discharges including slug loadings which may:

- (1) Impair the treatment process;
- (2) Cause damage to collection facilities;
- (3) Incur treatment costs exceeding those for normal wastewater; or
- (4) Render the waste unfit for stream disposal or industrial use
- (5) Have bypassed or not been properly treated by a pretreatment unit.

Section 22-112.-22-125. Reserved.

Division 4. Service Charge

Section 22-126 Water Rates.

(a) The following fees for Water connection and inspection shall be collected by the Town of Buchanan Treasurer prior to any connection to the Town Water System:

	Within Town Limits	Outside Town Limits
(1) Single family residence	\$ 2200.00	\$3300.00
(2) Multi-family residence	\$3300.00-unit	3300.00 unit
(3) Mobile homes	\$2200.00	3300.00

(b) The rates above are applicable for 6-inch diameter water lines. For water lines requested at 10” diameter the rate will be \$5000.00.

(c) For service lines larger than three-fourths inch and meters three-fourths inch and larger, together with box and cover, the applicant for water service shall pay the cost of all labor and material furnished by the Town of Buchanan together with a charge of twenty (20) percent for overhead and Supervision.

(d) When an application is made for water service by a non-owner of the property, a deposit of \$200 by the non-property owner applicant shall be paid to the Town Treasurer. No water connection shall be made until such charges are paid.

(e) The rates for water supplied by the Town shall apply to all resident and commercial customers of the Water Department of the Town of Buchanan and shall be as listed in the attached Water Rate Chart, which may be amended from time to time as provided by state law.

(f) The rate for water supplied by the Town to all non-residents of the Town of Buchanan shall be one- and one-half times the rates listed in the attached Water Rate Chart, which may be amended from time to time as provided by state law.

(g) **Bulk Water Purchase- Persons wishing to purchase bulk water from the Town must schedule, in advance, the dates and estimated quantity of water to be purchased and the name and address of the company to be billed for such purchase. The Town will determine if it is in the best interest of the Town to sell the requested water, the hydrant from which the water can be drawn, and install a portable water meter to measure such purchase. The purchaser shall also notify the Town when the need for water has ended.**

The charge for such service shall include a \$25 fee for connecting the meter and the amount of water used shall be charged at the following rate structure:

Bulk Water Purchase Rates	
Gallons	Amount to be Paid
Meter Connection Fee	\$25.00
Up to 1,000 Gallons	\$65.00
Between 1,000-2,000 gallons an additional fee of	\$35.00
Over 2,000 gallons each additional 1,000 gallons	\$20.00

In addition to the above rates, any person that fails to comply with the Town's Bulk Water Purchase policy shall be subject to a charge in the amount of \$250 for each event of noncompliance.

TOWN OF BUCHANAN WATER RATE TABLE
EFFECTIVE
7-1-2019

\$48.25 Minimum charge for 4,000 gallons used
0.32 per 100 gallons for the next 3,500 gallons used
0.24 per 100 gallons for the next 6,500 gallons used
0.13 per 100 gallons for all above 14,000 gallons used

4000-\$48.25	8100-\$60.89	12200-\$70.73	16300-\$78.04	20400-\$83.37
4100-\$48.57	8200-\$61.13	12300-\$70.97	16400-\$78.17	20500-\$83.50
4200-\$48.89	8300-\$61.37	12400-\$71.21	16500-\$78.30	20600-\$83.63
4300-\$49.21	8400-\$61.61	12500-\$71.45	16600-\$78.43	20700-\$83.76
4400-\$49.53	8500-\$61.85	12600-\$71.69	16700-\$78.56	20800-\$83.89
4500-\$49.85	8600-\$62.09	12700-\$71.93	16800-\$78.69	20900-\$84.02
4600-\$50.17	8700-\$62.33	12800-\$72.17	16900-\$78.82	21000-\$84.15
4700-\$50.49	8800-\$62.57	12900-\$72.41	17000-\$78.95	21100-\$84.28
4800-\$50.81	8900-\$62.81	13000-\$72.65	17100-\$79.08	21200-\$84.41
4900-\$51.13	9000-\$63.05	13100-\$72.89	17200-\$79.21	21300-\$84.54
5000-\$51.45	9100-\$63.29	13200-\$73.13	17300-\$79.34	21400-\$84.67
5100-\$51.77	9200-\$63.53	13300-\$73.37	17400-\$79.47	21500-\$84.80
5200-\$52.09	9300-\$63.77	13400-\$73.61	17500-\$79.60	21600-\$84.93
5300-\$52.41	9400-\$64.01	13500-\$73.85	17600-\$79.73	21700-\$85.06
5400-\$52.73	9500-\$64.25	13600-\$74.09	17700-\$79.86	21800-\$85.19
5500-\$53.05	9600-\$64.49	13700-\$74.33	17800-\$79.99	21900-\$85.32
5600-\$53.37	9700-\$64.73	13800-\$74.57	17900-\$80.12	22000-\$85.45
5700-\$53.69	9800-\$64.97	13900-\$74.81	18000-\$80.25	
5800-\$54.01	9900-\$65.21	14000-\$75.05	18100-\$80.38	
5900-\$54.33	10000-\$65.45	14100-\$75.18	18200-\$80.51	
6000-\$54.65	10100-\$65.69	14200-\$75.31	18300-\$80.64	
6100-\$54.97	10200-\$65.93	14300-\$75.44	18400-\$80.77	
6200-\$55.29	10300-\$66.17	14400-\$75.57	18500-\$80.90	
6300-\$55.61	10400-\$66.41	14500-\$75.70	18600-\$81.03	
6400-\$55.93	10500-\$66.65	14600-\$75.83	18700-\$81.16	
6500-\$56.25	10600-\$66.89	14700-\$75.96	18800-\$81.29	
6600-\$56.57	10700-\$67.13	14800-\$76.09	18900-\$81.42	
6700-\$56.89	10800-\$67.37	14900-\$76.22	19000-\$81.55	
6800-\$57.21	10900-\$67.61	15000-\$76.35	19100-\$81.68	
6900-\$57.53	11000-\$67.85	15100-\$76.48	19200-\$81.81	
7000-\$57.85	11100-\$68.09	15200-\$76.61	19300-\$81.94	
7100-\$58.17	11200-\$68.33	15300-\$76.74	19400-\$82.07	
7200-\$58.49	11300-\$68.57	15400-\$76.87	19500-\$82.20	
7300-\$58.81	11400-\$68.81	15500-\$77.00	19600-\$82.33	
7400-\$59.13	11500-\$69.05	15600-\$77.13	19700-\$82.46	
7500-\$59.45	11600-\$69.29	15700-\$77.26	19800-\$82.59	
7600-\$59.69	11700-\$69.53	15800-\$77.39	19900-\$82.72	
7700-\$59.93	11800-\$69.77	15900-\$77.52	20000-\$82.85	
7800-\$60.17	11900-\$70.01	16000-\$77.65	20100-\$82.98	
7900-\$60.41	12000-\$70.25	16100-\$77.78	20200-\$83.11	
8000-\$60.65	12100-\$70.49	16200-\$77.91	20300-\$83.24	

BOD₅ Result for Prior Month – 300 mg/L = If greater than 0 a surcharge will apply (where multiple samples were collected in the prior month, the average of all BOD₅ samples for that month shall be used for the prior month value)

$$\text{BOD}_5 \text{ Surcharge} = (\text{Prior Month BOD}_5 \text{ Result} - 300) \times (\text{Prior Month Flow in Gallons}) \times 0.00000834 \text{ (conversion factor)} \times \$0.015$$

For Example Where October BOD₅ Result = 400 mg/L and October Flow = 500,000 gallons

$$\text{October BOD}_5 \text{ Surcharge} = (400 - 300) \times 500,000 \times 0.00000834 \times \$0.25 = \$104.25$$

TSS Result for Prior Month – 300 mg/L = If greater than 0 a surcharge will apply (where multiple samples were collected in the prior month, the average of all TSS samples for that month shall be used for the prior month value)

$$\text{TSS Surcharge} = (\text{Prior Month TSS Result} - 300) \times (\text{Prior Month Flow in Gallons}) \times 0.00000834 \text{ (conversion factor)} \times \$0.35$$

For Example Where October TSS Result = 400 mg/L and October Flow = 500,000 gallons

$$\text{October TSS Surcharge} = (400 - 300) \times 500,000 \times 0.00000834 \times \$0.35 = \$145.95$$

(d) In laying sewer mains, the Town shall have all the work done and shall bear one-third of the cost. The property owners benefited by the sewer main in question shall pay the remaining two-thirds of cost on a per foot basis and same shall be assessable against their respective properties.

Section 22-128. Calculation generally.

Bills for water shall be figured in accordance with the Town's published rate schedule and shall be based on the amount consumed for the period covered by the meter readings, except that, where a user orders turn-off less than one (1) month after turn-on, the minimum bill to such a user for such period shall be equal to the minimum charge for one (1) full month's service.

Section 22-129. Calculation when meter out of repair.

When a correct reading of a user water meter is not possible because such meter is out of repair, the water and sewer charges will be calculated from the average of the preceding twelve (12) months.

Section 22-130. Disputed bills; special reading and testing of meters.

If any user believes his bill for water and sewer charges is in error, he shall present his claim to the Mayor or Chairman of the Utilities Department before the bill becomes

delinquent. Such claim, if made after the bill becomes delinquent, shall not be effective in preventing discontinuance of service, as provided in Section 22-133. The user may pay such a bill under protest, and such payment shall not prejudice his claim. The authority shall make special meter readings at the request of the user for a fee of ten dollars (\$10.00); provided that if the special reading discloses that the meter was overread or found to be in error, no charge will be made. Meters will be tested at the request of the user upon the payment of the Town of the actual cost of making the test; provided, that if the meter is found to be in error in excess of five (5) percent of the correct volume, an appropriate adjustment will be made on the subsequent bill.

Section 22-131. Readings from different meters not to be combined for billing: failure to receive bill does not relieve user from payment.

Readings from different water meters shall not be combined for billing, irrespective of the fact that such meters may be for the same or different premises. Failure to receive a bill for water or sewer service shall not prevent such bills from becoming delinquent nor relieve the user from payment.

Section 22-132. Billing.

All users shall be billed monthly. Bills for water and sewer service shall be due and payable upon receipt. Bills for service not paid by the fifteenth of the month following the end of the period for which service is billed shall have a penalty of **twenty dollars (\$20)** added thereto, unless the fifteenth falls on a Saturday or Sunday, or a holiday, then the time of payment without a penalty will be extended through Monday of the day after the holiday. If a bill becomes 30 days past due, a notice will be served on the user and if not paid within a **seven (7)** day working period, service to the premises in question shall be discontinued without additional notice and will not be restored until all bills due and payable under any and all sewer contracts shall have been paid in full, including a \$60.00 reconnection fee.

Section 22-133. Discontinuance of water service for failure to pay.

(a) Any user whose water or sewer charges are thirty (30) days past due shall have his water service discontinued after being notified, in writing, that the service will be discontinued after **seven (7)** days until the account is not paid in full or satisfactory arrangements are not made with the Town.

(b) In the event the water is turned off by reason of the nonpayment of water and sewer charges, the user, owner or renter will be required to make a payment sixty (60) dollars to the Town before the water will be turned on and service continued, this service charge payment will be in addition to the total amount of water and sewer charges due.

(c) Users of the Town's treatment works and treatment facilities will be assessed industrial cost recovery charges as required by law.

Section 22-134. Metering Rental Property

Each metered account must be established and maintained in the name of the landlord or property owner for each rental property having multiple tenants and only one meter. If the rental property units are individually metered, then the service may be established in the name of the tenant(s). Any water bills unpaid by the tenant and delinquent will be assessed to the property owner after the application of the deposit required by Section 22-126(d).

Section 22-135. – 22-153. Reserved.

Division 5. New Apartment, Condominium and Duplex Buildings and Reconstructed Single-Family Dwelling: Fees.

Section 22-154. Newly constructed apartment, condominium and duplex buildings, and mixed commercial / residential buildings or renovated existing buildings.

Each apartment or suite of rooms in any newly constructed or renovated apartment, condominium or duplex of any size, and each area devoted to a separate use in a mixed commercial / residential building will be required to be provided with an individual water meter and water hookup. A home occupation in a residentially zoned district is not a mixed commercial / residential building for purposes of this division.

Section 22-155. Reconstruction of single-family dwelling into multi-family dwelling and mixed commercial / residential building.

When a single family-dwelling is to be reconstructed so as to be a multi-family dwelling, each separate apartment or suite of rooms shall be provided with its own individual water meter and water hookup.

When a building is used for both commercial and residential purposes, a water meter and water hookup shall be provided for the area of the building used for commercial purposes and a separate meter and water hookup shall be provided for the area of the building used for residential purposes.

Section 22-156. Fees.

The fee charged for each individual water meter and water hookup shall be the same as those set out in Section 22-126 of this ordinance.

Section 22-157. Each meter considered separate service and separate service for mixed commercial / residential building and multiple businesses in a single location.

- (a) When any user is supplied through more than one water meter, each meter shall be considered as a separate service as to all water and sewer charges.

- (b) When a building is used for both commercial and residential purposes and does not have separate meters, the water and sewer service for the commercial purpose and the water and sewer service for the residential purpose shall be considered as a separate service as to all water and sewer charges.
- (c) When any building is divided into separate functional units, such building shall not be charged for an additional service of services if all units are owned and occupied by the owner and all water and sewer service so used is paid for by the owner.
- (d) When a single building is used by multiple business entities not owned by the same owner; each separate business entity shall be considered as a separate service as to all water and sewer charges.

Section 22-158 – 22-159 Reserved.

Division 6. Building Sewers and Connections

Section 22-160. Connection Authorization.

- (a) No person shall uncover or make any connections with, use, alter, or disturb any wastewater sewer or a storm sewer without first obtaining proper authorization from the Mayor or his duly authorized representative.
- (b) Connections to a storm sewer shall be subject to the provisions of this ordinance and the approval of the Mayor or his duly authorized representative.

Section 22-161. Separate connections required.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The Town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

Section 22-162. Existing Building Sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the Mayor or his duly authorized representative meet the requirements of the ordinance

Section 22-163. Building Sewer Designs.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other

applicable requirements of the Town and/or county. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

Section 22-164. Building Sewer Elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the Town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the Town sewer.

Section 22-165. Surface Runoff and Groundwater Drains.

(a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works, unless such connection is authorized in writing by the Mayor or his duly authorized representative. The connection of such drains shall conform to codes specified by the Mayor or his duly authorized representative as a condition of approval of such connection.

(b) Except as provided in Section (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(c) In any case where there is now in existence any down spout, drain or conductor of surface or storm water discharging into any sanitary sewer of the Town, it shall be the duty of the owner or lessee of the property on which the same exists, to sever or break the connection thereof with the sanitary sewer into which it has discharged and so provide that it shall not discharge into any sanitary sewer of the Town.

Section 22-166. Conformance to Applicable Codes.

(a) The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the Town and/or county, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials.

The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Mayor or his duly authorized representative before installation.

Section 22-167. Connection Inspection.

Any person desiring to connect a building sewer or other drainage connection shall notify the Mayor or his duly authorized representative when such sewer or drainage connection is ready for inspection prior to its connection to the Town's treatment works. Such

connection inspection and testing as deemed necessary shall be made by the Mayor or his duly authorized representative.

Section 22-168. Excavation Guards and Property Restoration.

Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

Section 22-169. Protection of Capacity for Existing Users.

The Mayor or his duly authorized representative shall not authorize any connection to the Town treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Mayor or his duly authorized representative may permit such a connection if there are legally binding commitments to provide the needed capacity.

Division 7. Enforcement and Severability.

Section 22-170. Harmful Contributions

(a) The Town may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of person, to the environment, causes interference to the treatment facilities or causes the Town to violate any condition of its VPDES Permit.

(b) Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The Town shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measure taken to prevent any future occurrence shall be submitted to the Town within 15 days of the date of occurrence.

Section 22-171. Reserved.

Section 22-172. Show Cause Hearing.

(a) The Town may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings

shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The Mayor may conduct the hearing and take the evidence, or may designate any member of the Town Council or any officer or employee of the Town to:

(1) Issue in the name of the Mayor notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings; or any officer or employee of the Town to:

(2) Take the evidence:

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Mayor of action thereon.

(c) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(d) After the Mayor has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Section 22-173. Legal Action.

If any person discharges sewage, industrial wastes or other wastes into the Town's treatment works contrary to the provisions of this ordinance, applicable Federal or State Pretreatment Requirements, or any order of the Town or if any industrial user refuses access to the Mayor or his authorized representative for purposes of inspection, the Town attorney may commence an action for appropriate legal and/or equitable relief in the circuit court.

Section 22-174. Penalty for violations.

(a) A person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor and upon conviction is punishable by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation per day and confinement in jail for not more than twelve (12) months, either or both. In the event of a violation, the Town shall also have the right to terminate the water and or sewer connections.

Section 22-175. Falsifying Information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained

pursuant to this ordinance, or who falsifies any monitoring device or method required under their ordinance, shall, upon conviction, be guilty of a Class I misdemeanor.

Section 22-176. Severability.

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.

CHAPTER 23

WEAPONS

Section 23-1. Carrying concealed.

Section 23-2. Discharging firearms.

Section 23-3. Discharging air gun, etc.

Section 23-4. Exceptions.

Section 23-5. Urban Archery Hunting Program.

Section 23-1. Carrying concealed weapon.

If any person carry about his person, hid from common observation, any pistol, dirk, Sowie knife, switch—blade knife, razor, slung shot, metal knucks, or any weapon of like kind, he shall upon conviction thereof be fined not less than twenty dollars nor more than five hundred dollars and may, in addition thereto, be committed to jail for not more than twelve months, and such pistol, dirk, Bowie knife, switch—blade knife, razor, slung shot, metal knucks, or weapon of like kind shall, by order of the court be forfeited to the Town and may be seized by an officer as forfeited and such as may be needed for law officers and conservators of the peace shall be devoted to the purpose, and the remainder shall be destroyed by the officer having them in charge.

This section shall not apply to any police officers, sergeants, sheriffs, officers or guards of the penitentiary or other institutions or camps of the state corrections system, conservators of the peace other than notaries public, or to carriers of the United States mail in the rural districts, or to any collecting officer while in the discharge of his official duty. No person shall be punishable under this section if he or she has been granted permission to carry concealed weapons in accordance with state law,

Section 23-2. Discharging firearms.

It shall be unlawful for any person to fire or discharge, within the Town, any firearm of any kind, except in necessity to safeguard and to protect life or property.

Section 23-3. Discharging air gun, bow, etc.

No person shall, anywhere within the Town, discharge an arrow, shot, stone, gravel, bullet or any similar thing from any air gun, bow, gravel shooter or other similar instrument, except in necessity to safeguard and to protect life or property.

Section 23-4 Exceptions.

Permission may be granted by the Town of Buchanan or the Sheriff of Botetourt County, in its/their discretion for exceptions to this chapter for special events or for designated areas of the Town upon a determination that such usage does not constitute a risk to

public safety. Examples, of situations in which such discretion may be exercised include but are not limited to: carnival games, boy scout events under adult supervision and law enforcement training events.

Section 23-5 Urban Archery Hunting Program.

For as long as the Town has chosen to participate in the State Department of Game and Inland Fisheries Urban Archery Hunting program, the prohibition for discharging bows within the Town, in Section 23-2, is waived so long as the following conditions are followed.

- (1) No hunting will be allowed on Town owned property.
- (2) Hunting is restricted to properties of ½ acre or greater and with written permission of the property owner, which must be carried by the hunter at all times when hunting within the Town.
- (3) The discharge of archery equipment is not permitted within 100 feet of any dwelling, street, sidewalk, alley or public place.
- (4) A hunter discharging a bow shall take reasonable care to ensure the arrow does not cross any property line and enter any property on which the hunter does not have permission to hunt.
- (5) Hunting is only permitted from elevated positions of at least 10 feet.
- (6) Hunters must obtain permission from neighboring residents to track or retrieve a deer from that property.
- (7) Property owners wishing to allow Urban Archery hunting on their property must notify the Town of their intent to do so.